Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-001

A RESOLUTION REAPPOINTING WILLIAM A. JAQUES, BILL ZOSLOCKI AND RICH ROSA TO THE AIRPORT ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint WILLIAM A. JAQUES, BILL ZOSLOCKI and RICH ROSA to the Airport Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. WILLIAM A. JAQUES, BILL ZOSLOCKI and RICH ROSA are hereby reappointed to the Airport Advisory Committee with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Airport Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-002

A RESOLUTION REAPPOINTING TIM RAGSDALE AND DOUG MOORE TO THE BOARD OF BUILDING APPEALS

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint TIM RAGSDALE and DOUG MOORE to the Board of Building Appeals.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. TIM RAGSDALE and DOUG MOORE are hereby reappointed to the Board of Building Appeals with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Board of Building Appeals, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-003

A RESOLUTION REAPPOINTING RALPH SAXTON TO THE BOARD OF ZONING ADJUSTMENT

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint RALPH SAXTON to the Board of Zoning Adjustment.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. RALPH SAXTON is hereby reappointed to the Board of Zoning Adjustment with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Board of Zoning Adjustment, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
R. Steven Asst.
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-004

A RESOLUTION REAPPOINTING WILLIAM A. JAQUES TO THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint WILLIAM A. JAQUES to the Citizens Advisory Committee on Recycling.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. WILLIAM A. JAQUES is hereby reappointed to the Citizens Advisory Committee on Recycling with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Citizens Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
R. Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-005

A RESOLUTION REAPPOINTING ANTHONY GONSALVES TO THE COMMUNITY QUALITIES FORUM

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint ANTHONY GONSALVES to the Community Qualities Forum.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. ANTHONY GONSALVES is hereby reappointed to the Community Qualities Forum with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Community Qualities Forum, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-006

A RESOLUTION REAPPOINTING CLEO GRIFFITH TO THE CULTURE COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint CLEO GRIFFITH to the Culture Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. CLEO GRIFFITH is hereby reappointed to the Culture Commission with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Culture Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-007

A RESOLUTION REAPPOINTING DONALD LENGLING AND JOSEPH ALONZO TO THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint DONALD LENGLING and JOSEPH ALONZO to the Golf Courses Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DONALD LENGLING and JOSEPH ALONZO are hereby reappointed to the Golf Courses Advisory Committee with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Golf Courses Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-008

A RESOLUTION REAPPOINTING PHILIP TOMLIN TO THE HOUSING REHABILITATION LOAN COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint PHILIP TOMLIN to the Housing Rehabilitation Loan Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. PHILIP TOMLIN is hereby reappointed to the Housing Rehabilitation Loan Committee with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Housing Rehabilitation Loan Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
R. Steven Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-009

A RESOLUTION REAPPOINTING DWIGHT BATEMAN, JACKY DEABLER, GALENA JAMES AND SCOTT HALLMON TO THE HUMAN RELATIONS COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint DWIGHT BATEMAN, JACKY DEABLER, GALENA JAMES and SCOTT HALLMON to the Human Relations Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DWIGHT BATEMAN, JACKY DEABLER, GALENA JAMES and SCOTT HALLMON are hereby reappointed to the Human Relations Commission with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Human Relations Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-010

A RESOLUTION REAPPOINTING DENNIS E. WISTER TO THE LANDMARK PRESERVATION COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint DENNIS E. WISTER to the Landmark Preservation Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DENNIS E. WISTER is hereby reappointed to the Landmark Preservation Commission with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Landmark Preservation Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-011

A RESOLUTION REAPPOINTING ELLIE TEMPLE BAUMER TO THE LOCAL CABLE PROGRAMMING COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint ELLIE TEMPLE BAUMER to the Local Cable Programming Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. ELLIE TEMPLE BAUMER is hereby reappointed to the Local Cable Programming Committee with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Local Cable Programming Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-012

A RESOLUTION REAPPOINTING PATRICIA GILLUM TO THE PLANNING COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended its approval to reappoint PATRICIA GILLUM to the Planning Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. PATRICIA GILLUM is hereby reappointed to the Planning Commission with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Planning Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-013

A RESOLUTION APPOINTING DOROTHY GRIGGS TO THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended appointment of DOROTHY GRIGGS to the Citizens Housing and Community Development Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DOROTHY GRIGGS is hereby appointed to the Citizens Housing & Community Development Committee with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Housing & Community Development, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-014

Print

A RESOLUTION APPOINTING CHRISTINA TIPSWORD TO THE COMMUNITY QUALITIES FORUM

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended appointment of CHRISTINA TIPSWORD, a northeast resident, to the Community Qualities Forum.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. CHRISTINA TIPSWORD, a northeast resident, is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Community Qualities Forum and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
R. Steven Puckett
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-015

A RESOLUTION APPOINTING RICHARD GAYTAN AND BRYAN SUTTERFIELD TO THE HUMAN RELATIONS COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on December 11, 2006, and recommended appointment of RICHARD GAYTAN and BRYAN SUTTERFIELD to the Human Relations Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. RICHARD GAYTAN, with a term expiration of January 1, 2008 and BRYAN SUTTERFIELD, with a term expiration of January 1, 2011, are hereby appointed to the Human Relations Commission.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Human Relations Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-016

Print

A RESOLUTION APPOINTING BEV GRAHAM TO THE COMMUNITY QUALITIES FORUM

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, Mayor Jim Ridenour has recommended BEV GRAHAM as his selection to the Community Qualities Forum.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. BEV GRAHAM is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Community Qualities Forum and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-017

A RESOLUTION APPOINTING GEORGIA ANDERSON TO THE DOWNTOWN IMPROVEMENT DISTRICT ADVISORY BOARD

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Board of Directors of the Downtown Improvement District received eleven applications and recommended appointment of GEORGIA ANDERSON to the Downtown Improvement District Advisory Board.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. GEORGIA ANDERSON is hereby appointed to the Downtown Improvement District Advisory Board, with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Downtown Improvement District Advisory Board, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
Susana Alcala Wood, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-018

Print

A RESOLUTION APPOINTING A MEMBER OF THE PLANNING COMMISSION TO THE BOARD OF ZONING ADJUSTMENT

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Planning Commission met on November 20, 2006 and recommended appointment of WILLIAM "MAC" MCDANIEL as its representative to the Board of Zoning Adjustment.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. WILLIAM "MAC" MCDANIEL, as representative of the Planning Commission, is hereby appointed to the Board of Zoning Adjustment with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Board of Zoning Adjustment, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-019

A RESOLUTION APPOINTING A MEMBER OF THE PLANNING COMMISSION TO THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, on December 4, 2006, the Planning Commission recommended JOHN SANDERS as its representative to the Citizens Housing and Community Development Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. JOHN SANDERS, as representative of the Planning Commission, is hereby appointed to the Citizens Housing & Community Development Committee with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Housing & Community Development, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-020

A RESOLUTION APPOINTING A MEMBER OF THE PLANNING COMMISSION TO THE CITIZENS REDEVELOPMENT ADVISORY COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, on December 4, 2006, the Planning Commission recommended ALITA ROBERTS as its representative to the Citizens Redevelopment Advisory Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. ALITA ROBERTS, as representative of the Planning Commission, is hereby appointed to the Citizens Redevelopment Advisory Commission with a term expiration of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Redevelopment Advisory Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-021

A RESOLUTION OF INTENTION TO ANNEX TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 1997-1 (NORTH BEYER PARK) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN (ANNEXATION NO. 2)

WHEREAS, pursuant to Chapter 3.5 Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"), proceedings for the annexation of territory to an existing community facilities district may, pursuant to Chapter 3.5 of the Act, be instituted by the adoption by the legislative body of a resolution of intention to annex such territory, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 97-355 adopted on June 24, 1997 (the "Resolution of Formation"), establishing the City's Community Facilities District No. 1997-1 (North Beyer Park) ("the District"), and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 99-211, adopted on June 8, 1999, order the annexation of additional territory to the District, and

WHEREAS, this Council hereby determines that the public convenience and necessity require the annexation of certain territory to the District, and

WHEREAS, the territory to be annexed is within the City limits, and

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND by the City Council of the City of Modesto, California, that:

SECTION 1. The above recitals are true and correct.

SECTION 2. The boundaries of the District are shown on a map entitled "Boundary Map of Community Facilities District No. 1997-1 (North Beyer Specific Plan)", on file with the

County Recorder of the County of Stanislaus, at Book 2 of Maps of Assessments of Community Facilities Districts, at Page 80, and the map entitled "Annexation Map No. 1 of Community Facilities District No. 1997-1 of the City of Modesto, County of Stanislaus, State of California" on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 14.

SECTION 3. The territory proposed to be annexed to the District (the "Territory") is described in **Exhibit A.**

SECTION 4. The boundaries of the Territory are also shown on the map thereof, entitled "Annexation Map No. 2 of Community Facilities District No. 1997-1 (North Beyer Park), City of Modesto, County of Stanislaus, State of California," on file in the office of the City Clerk, which map is hereby approved and adopted. Pursuant to Sections 3110.5 and 3113 of the California Streets and Highways Code, the City Clerk shall endorse her certificate on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in her office and, not later than ten days after the adoption of this Resolution, file a copy of the map with the County Recorder of the County of Stanislaus. The map shall contain the legends provided in Sections 3110, 3110.5, and 3313 of the California Streets and Highways Code, including a reference to the title, book, page and recording date of the original boundary map of the District.

SECTION 5. The public facilities and services to be provided for the District are set forth in the Resolution of Formation. It is intended that these same facilities and services be provided to the Territory.

SECTION 6. The special taxes to be levied in the District are set forth in the Resolution of Formation. It is intended that the same special taxes be levied in the Territory.

SECTION 7. A public hearing on this Resolution will be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, February 6, 2007, at the regular meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353, such time being not less than 30 or more than 60 days following the adoption hereof.

SECTION 8. At the hearing, any interested persons for or against the annexation of the Territory to the District, and the levy of the special taxes therein, may appear and will be heard and considered. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.

SECTION 9. The City Clerk is directed to publish, not later than seven days prior thereto, a notice of the hearing, in the form required by the Act, in a newspaper of general circulation published in the area of the District, being *The Modesto Bee*, and otherwise in accordance with Section 6061 of the California Government Code, stating (a) the text or a summary of this Resolution, (b) the time and place of the hearing, and (c) that all interested persons for or against the annexation of the Territory to the District or the levying of the special taxes in the Territory will be heard.

SECTION 10. (a) If a majority (but at least six) of the registered voters residing within the District or a majority (but at least six) of the registered voters residing within the Territory, or the owners of one-half or more of the area of the land in the District and not exempt from the special tax, or the owners of one-half or more of the Territory, file written protests against the proposed annexation, and the protests are not withdrawn so as to reduce the value of the protests

to less than a majority, no further proceedings to annex the Territory to the District, or to levy in the Territory the special taxes to be levied in the District, shall be taken for a period of one year from the date of the decision of the Council on the issues discussed at the hearing.

SECTION 11. At the conclusion of the hearing, if the Council determines to annex the Territory to the District, it will submit the levy of the special taxes to the qualified electors of the Territory in a special election.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

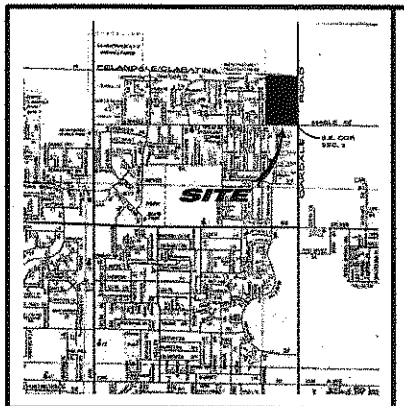
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ANNEXATION MAP NO. 2 OF
COMMUNITY FACILITIES DISTRICT NO. 1997-1 (NORTH BEYER PARK)
CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA

CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA

PREPARED BY:
DELAMARE-FULTZ
ENGINEERING AND SURVEYING
3421 TULLY ROAD SUITE J MODESTO, CA. 95350
TELEPHONE (209) 529-7450



VICINITY MAP
(NO SCALE)

CERTIFICATES REQUIRED:

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO THIS _____ DAY OF _____, 2007.
JEAN MORRIS, CITY CLERK

BY: _____

_____
PRINT NAME

I HEREBY CERTIFY THAT THIS MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION NO. 2 TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1997-1 (NORTH BEYER PARK), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MODESTO AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____, 2007, BY ITS RESOLUTION NO. 2007-____
JEAN MORRIS, CITY CLERK

BY: _____

_____
PRINT NAME

THIS IS A MAP OF THE AREA PROPOSED TO BE ANNEXED TO THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1997-1 (NORTH BEYER PARK), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, WHICH WAS RECORDED ON MAY 13, 1997, IN BOOK 2 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 60, IN THE OFFICE OF THE COUNTY RECORDER, OF STANISLAUS COUNTY, STATE OF CALIFORNIA.
A MAP OF ANNEXATION NO. 1 TO THE DISTRICT WAS RECORDED ON MARCH 29, 1999 IN BOOK 9 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 14, IN THAT OFFICE.
JEAN MORRIS, CITY CLERK

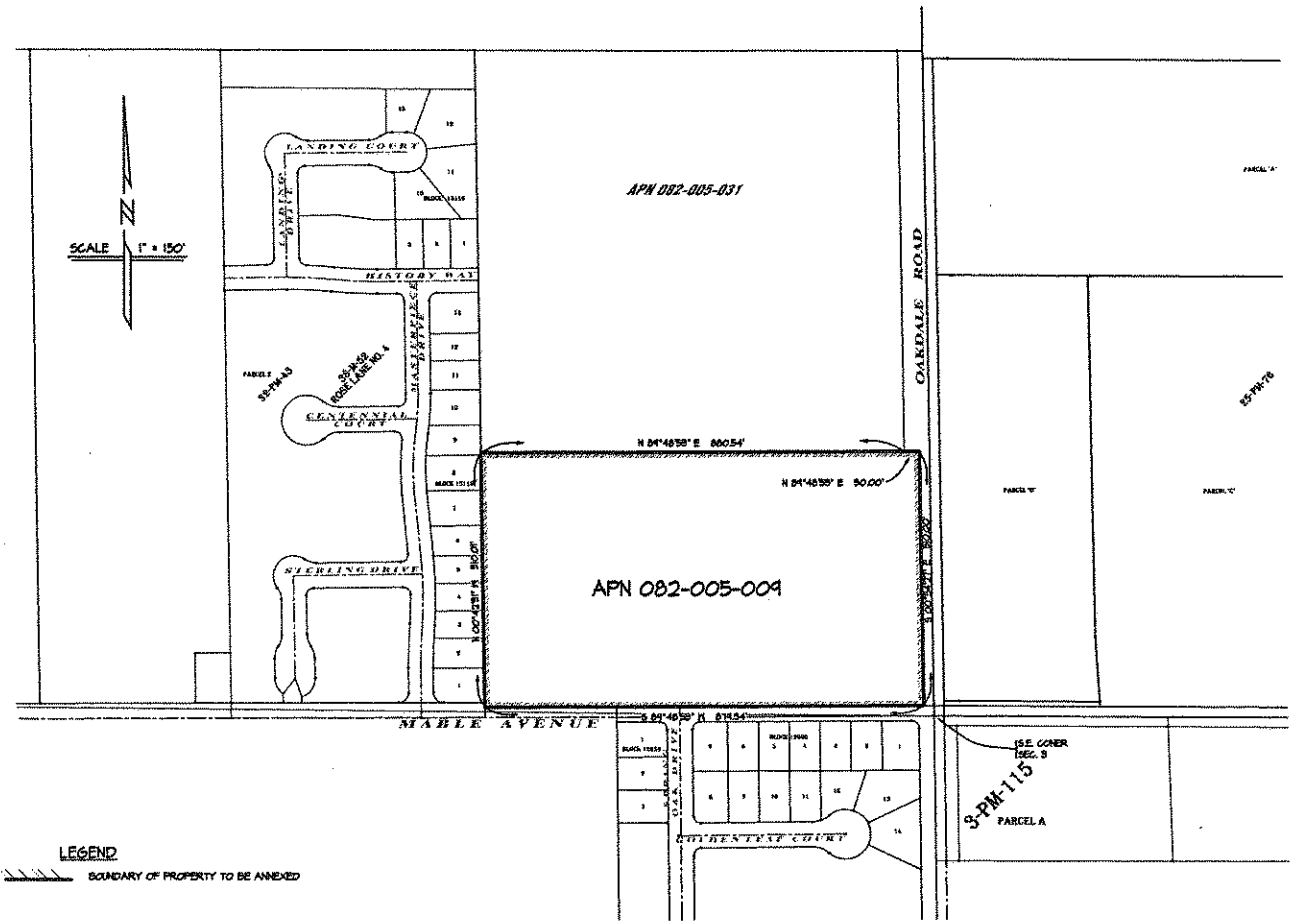
BY: _____

_____
PRINT NAME

FILED THIS _____ DAY OF _____, 2007, AT THE HOUR OF _____ O'CLOCK ____ M. IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE(S) _____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA.
LEE LUNDRIGREN, COUNTY RECORDER OF THE
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

BY: _____

_____
PRINT NAME



LEGEND

BOUNDARY OF PROPERTY TO BE ANNEXED

SHEET 1 OF 1 SHEETS

G:\ACTIVE PROJ\2005 Jobs\0535 Ang ANNEX\0535-ANNEX.dwg SHT1 Dec 06, 2006 12:17pm eddie

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007- 022

A RESOLUTION AMENDING THE FISCAL YEAR 2006-07 BUDGET TO: 1) ESTIMATE $767,904 IN REVENUE FROM THE SALE OF 17TH AND G STREETS PARK; 2) APPROPRIATE SAID REVENUE TO 1400-310-3100-8101; 3) ESTABLISH A MULTI-YEAR OPERATING ORGANIZATION IN FUND 1400, FOR SPECIAL PROJECTS AND APPROPRIATE $70,000 FROM THE PARK FUND RESERVE TO SAID ORGANIZATION; AND 4) APPROVE PAYMENT OF $74,750 TO THE CALIFORNIA WILDLIFE FOUNDATION FROM CAPITAL IMPROVEMENT PROJECT P501, MARY E. GROGAN COMMUNITY PARK, TO MITIGATE THE IMPACTS TO SWAINSON'S HAWKS RESULTING FROM CONSTRUCTION OF THE PARK.

WHEREAS, as part of the Parks, Recreation and Neighborhoods Department's Fund Development Plan, Council accepted a recommendation to sell surplus parcels that are not needed to meet the Open Space requirements in the General Plan, and

WHEREAS, the City of Modesto recently sold the property known as 17th and G Streets Park (also known as Tower Park) to the Redevelopment Agency, and

WHEREAS, the proceeds from this sale were $767,904; the check has been received and deposited into the Park Fund (Fund 1400) Reserve, and

WHEREAS, $600,000 was allocated to Capital Improvement Program project 1400-310-P854, Thurman Field Improvements as part of the Council adoption of the 2006-07 Capital Improvement Plan in anticipation of receipt of the proceeds from sale of 17th and G Streets Park, and

WHEREAS, as part of the Council adoption of the 2006-07 Capital Improvement Plan and in anticipation of receipt of the proceeds from the sale of 17th and G Streets Park, $74,750 was allocated from the Park Fund Reserve to the Mary E. Grogan

Community Park Capital Improvement Project for mitigation of Swainson's Hawk habitat, and

WHEREAS, staff is recommending that $70,000 be appropriated to a new multi-year Fund 1400 organization, and

WHEREAS, these funds will be used for Special Projects related to funding for capital projects, and

WHEREAS, staff is further recommending that the balance of $23,154 remain in the Park Fund Reserve at this time,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2006-07 budget to estimate $767,904 in revenue from the sale of 17th and G Streets Park.

BE IT FURTHER RESOLVED that the Council herby approves amending the Fiscal Year 2006-07 budget to appropriate said revenue to 1400-310-3100-8101.

BE IT FURTHER RESOLVED that the Council herby approves amending the Fiscal Year 2006-07 budget to establish a multi-year operating organization in Fund 1400, for Special Projects, and appropriate $70,000 from the Park Fund Reserve to said organization, with $20,000 of said funding to be placed in the City's Parks Fund with the Stanislaus Community Foundation.

BE IT FURTHER RESOLVED that the Council herby approves payment of $74,750 to the California Wildlife Foundation from Capital Improvement Project P501, Mary E. Grogan Community Park, to mitigate the impacts to Swainson's Hawks resulting from construction of the park.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Stevens Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-023

A RESOLUTION ACCEPTING $1,5263,000 IN GRANT FUNDING UNDER THE PROPOSITION 50 – RIVER PARKWAYS GRANT PROGRAM FROM THE STATE OF CALIFORNIA RESOURCES AGENCY FOR PHASE I DEVELOPMENT OF THE GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT CONTRACT.

WHEREAS, staff has been notified by the State of California Resources Agency that the City has been awarded $1,506,000 in funding from the Proposition 50 – River Parkways Grant Program, and

WHEREAS, said funding will allow for the development of Phase I of the Gateway Parcel of the Tuolumne Regional River Park (TRRP), and

WHEREAS, specifically, funding will be used for site preparation, grading and drainage, irrigation system and planting of the entire site, and

WHEREAS, Phase I of the Gateway area is intended to encompass 11 acres of grading, trail connection from Confluence Point to the 7th Street Bridge, backwater channel creation, plant establishment and irrigation (for the first 3 year) and river restoration work, and

WHEREAS, in order to accept the funding, the City Manager, or his designee, must be authorized to execute the Grant Contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts $1,526,000 in grant funding under the Proposition 50 – River Parkways Grant Program from the State of California Resources Agency.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Steven Mast
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-024

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH PACIFIC DESIGN ASSOCIATES, INC. TO PROVIDE ARCHITECTURAL SERVICES FOR THE 1230 12TH STREET SEISMIC RETROFIT, REPAIR AND RENOVATION PROJECT, IN THE NOT-TO-EXCEED AMOUNT OF $70,575.20, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, on August 29, 2003, the City of Modesto received a "Notice of Determination," which indicated that the Social Security Administration (SSA) Building, located at 1230 12th Street, (GSA No. 9-G-CA-1610), had been determined to be surplus government property, and

WHEREAS, the notice, issued by the U.S. General Services Administration (GSA) of the Federal Government, reported that the property was also determined to be suitable by the Department of Housing and Urban Development (HUD), and the first priority for use is for homeless programs or services for the homeless, and

WHEREAS, on October 14, 2003, by Resolution No. 2003-548, the City Council authorized staff to submit a "Letter of Interest" to the Department of Health and Human Services (HHS) in order to receive an application for the surplus property located on 1230 12th Street, previously used by the Social Security Administration, and approved staff recommendation for future use of the former Social Security Administration building, and

WHEREAS, On January 6, 2004, by Resolution No. 2004-019, the City Council approved the submission of an application for the surplus property located at 1230 12th Street and authorized the City Manager to execute the agreement and subsequent documents, and

WHEREAS, On September 13, 2004, the City of Modesto received a letter from the Department of Health and Human Services, Division of Property Management with an original Quitclaim Deed; by signing this document the City indicated its acceptance, and

WHEREAS, in accepting this property, the City of Modesto committed to preparing the site for occupancy, within 36 months if major renovations are done; or within 12 months if minor repairs need to be done, and

WHEREAS, the 1230 12th Street building must be retrofitted and renovated before it can be occupied, and

WHEREAS, the building does not meet current seismic standards, and

WHEREAS, although the building is in good condition, the mechanical and electrical system and the roof are the major items requiring repair and/or replacement, and

WHEREAS, funding for the renovation of this building is available through CDBG funds; the allocations of the CDBG funds were approved on May 11, 2004, by Council Resolution No. 2004-265 and on May 24, 2005 by Council Resolution 2005-279, and

WHEREAS, the selection process for the architectural services followed the City's accelerated selection procedure for professional consultants as outlined in Administrative Directive 3.1, and

WHEREAS, the City sent a Request for Proposals for the Seismic Retrofit, Repair and Renovation of this building to local architectural firms that had previously indicated and interest in providing architectural design services to the City to four consulting firms, and

WHEREAS, the City received one proposal and a letter from another firm indicating that they were not able to assemble a consulting team before the proposal's due date, and

WHEREAS, after reviewing the fee proposal for architectural services and clarifying their proposed fees from Pacific Design Associates, Inc., staff is recommending approval of a professional services agreement with Pacific Design Associates, Inc. at a total fee not to exceed $70,575.20,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a professional services agreement with Pacific Design Associates, Inc. to provide architectural services for the 1230 12th Street Seismic Retrofit, Repair and Renovation project, in the not-to-exceed amount of $70,575.20.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Stevens Wood
SUSANA ALCALA WOOD, City Attorney

Print

-MODESTO CITY COUNCIL
RESOLUTION NO. 2007-025

A RESOLUTION APPROVING AN AMENDMENT TO THE LICENSE AGREEMENT WITH THE MODESTO NUTS PROFESSIONAL BASEBALL CLUB TO REQUIRE INSTALLATION OF A NEW SCOREBOARD BY THE MODESTO NUTS PROFESSIONAL BASEBALL CLUB IN PLACE OF THE CITY OF MODESTO INVOKING THE CITY CHARTER AMENDMENT THAT ALLOWS A PUBLIC WORKS EXCEPTION FOR PARKS PROJECTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, the City owns, operates and manages John Thurman Field, a Class A professional baseball stadium, and

WHEREAS, on October 24, 2006, the City of Modesto and the Modesto Nuts Professional Baseball Club entered into a ten-year license agreement under authority of Resolution No. 2006-691 for the lease of John Thurman Field, and

WHEREAS, it is the desire of the City of Modesto and the Modesto Nuts Professional Baseball Club to install a new scoreboard by the 2007 baseball season, and

WHEREAS, the existing license agreement will be amended to require installation of a new scoreboard by the Modesto Nuts Professional Baseball Club, and

WHEREAS, the Modesto Nuts Professional Baseball Club will donate all or a portion of the construction management of the project to install the new scoreboard, and

WHEREAS, the Modesto Nuts Professional Baseball Club will also donate the cost of electrical modifications required for installation of the subject scoreboard in excess of $30,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the amendment to the license agreement with the Modesto Nuts Professional Baseball Club to require installation of a new scoreboard by the Modesto Nuts Professional Baseball Club in place of the City of Modesto invoking the City Charter amendment that allows a public works exception for parks projects.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By R. Steven Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION No. 2007-026

A RESOLUTION APPROVING A THREE AND ONE HALF (3.5%) PERCENT INCREASE IN SALARY FOR THE CITY CLERK/AUDITOR AND THE CITY ATTORNEY, EFFECTIVE DECEMBER 26, 2006.

WHEREAS, by Resolution No. 2005-602 effective December 26, 2005, the City Council approved and established a "City of Modesto Schedule of Salary Ranges in City Service For FY 06-07 Effective December 26, 2006," for Executive Management (Exhibit "P"), and

WHEREAS, salaries for Charter Officers appointed by the Council are subject to periodic review and adjustment, and

WHEREAS, the Council desires to approve a three and one-half (3.5%) percent increase in salary to JEAN MORRIS, City Clerk/Auditor, effective December 26th, 2006, which increase is within the range established in Exhibit "P" of Resolution No. 2005-602,

WHEREAS, the Council desires to approve a three and one-half (3.5%) percent increase in salary to SUSANA ALCALA WOOD, City Attorney, effective December 26th, 2006, which increase is within the range established in Exhibit "P" of Resolution No. 2005-602,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves increases in salary to JEAN MORRIS, City Clerk/Auditor and SUSANA ALCALA WOOD, City Attorney, effective December 26, 2006, as follows:

Title	Hourly	Bi-Weekly	Monthly
City Clerk/Auditor	49.4546	3,956.37	8,605.10
City Attorney	71.3792	5,710.34	12,420.00

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By R. Steven Ward
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-027

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO.

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for Fire Business Services Analyst and change the title to Public Safety Business Services Analyst.

The job specification for this classification is being amended to incorporate an assignment in the Police Department. The job specification for the former classification of Fire Business Services Analyst, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 2, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By R. Steven Asst.
SUSANNA ALCALA WOOD, City Attorney

CITY OF MODESTO January 2007 ~~2006~~
No. 3703

PUBLIC SAFETY ~~FIRE~~ BUSINESS SERVICES ANALYST

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To manage the department budget process, to provide a variety of administrative support for the Police or Fire Department; to perform research, statistical and other analytical work; and to fulfill other assignments in functional areas such as purchasing, ~~budget~~ project management, and other areas for the department.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Fire Chief, Police Chief or other management staff.

May exercise supervision over subordinate staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Directs the budgetary and fiscal control process for the ~~Fire Department, and~~ department, projects revenue and expenditures; prepares the department's ~~operating~~ budget; develops proformas for the department; serves as the lead on financial items with the Finance Department.

Investigates, analyzes, develops, and prepares special studies or projects as requested; conducts special projects and administrative studies; prepares research and analytical reports.

Oversees the department's purchasing function including vendor development, specification development, solicitation of bids, cost evaluations, and the preparation of committee or council reports.

Oversees the management of department property and records.

Oversees the development and administration of grants, coordinates the fiscal monitoring and reporting for grants, contracts and agreements; oversees billing for services provided.

Exhibit "A"

Essential Functions: (Continued)

Assists with the development of department policies and procedures.

Recommend the appointment and termination of personnel; train and orient staff; assign and review work, evaluate performance and implement progressive discipline as required.

~~Oversees the administration of department grants~~.

Serves as project manager for the department's facilities maintenance program.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of organization, administration, and personnel management.

Principles and practices of budget preparation and administration.

Modern office procedures, methods and computer equipment.

Principles and procedures of financial record keeping and reporting.

Technical report writing procedures.

Principles and practices of purchasing.

Principles of project management.

Principles of supervision, training, and performance evaluation.

Administrative research techniques, sources and availability of information.

Ability to:

Learn the process and structure of City and department.

Learn applicable Federal, State, and local laws, codes and regulations.

Ability to: (Continued)

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.

Analyze facts and make sound recommendations.

Prepare completed staff work for oral and written communications.

Plan, initiate and complete work assignments with a minimum of direction.

Communicate clearly and concisely, both orally and in writing.

Use and operate a personal computer with a variety of software.

Establish and maintain cooperative-working relationships with those contacted in the course of work.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Two years of increasingly responsible administrative and analytical experience in a public agency.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in business or public administration or a related field.

WORKING CONDITIONS

Environment Conditions:

Office and field environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods

Physical Conditions: (Continued)

of time and occasional lifting; using various office equipment including a computer screen and keyboard and travel from site to site.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-028

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-321 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO AMEND THE CLASSIFICATION OF FIRE BUSINESS SERVICES ANALYST AND CHANGE THE TITLE TO PUBLIC SAFETY BUSINESS SERVICES ANALYST.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-321, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2006-321 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective May 23, 2006", attached to Resolution No. 2006-321, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective January 2, 2007", which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" amends the classification of Fire Business Services Manager and changes the title to Public Safety Business Services Manager at Salary Range 438 ($5,536-$6,745 per month).

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 2, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 2nd Day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By R. Ferreira
SUSANNA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective January 2, 2007

RANGE	TITLE
403	
407	Administrative Clerk II (Confidential) Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Administrative Technician (Confidential)
414	
415	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

Exhibit "A"

RANGE	TITLE
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Supervising Animal Control Officer Police Civilian Supervisor Stores Manager Systems Technician III
427	Assistant City Clerk/Auditor Legal Services Administrator Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Junior Civil Engineer Junior Traffic Engineer Senior Crime Analyst Software Analyst I
431	Administrative Analyst II Assistant Risk Manager Budget Analyst I Personnel Analyst Recycling Program Coordinator

Exhibit "A"

RANGE	TITLE
432	Communications Specialist Compost Facility Supervisor Customer Services Supervisor Neighborhood Preservation Supervisor Operations and Maintenance Supervisor Recreation Supervisor II Senior Accountant Water Quality Control Maintenance Supervisor Water Quality Control Operations Supervisor
433	Organizational Development Specialist
434	Assistant Civil Engineer Assistant Traffic Engineer Budget Analyst II Environmental Laboratory Supervisor Operations Supervisor Regulatory Compliance Supervisor SCADA Supervisor Senior Community Development Program Specialist Senior Housing Rehabilitation Specialist Software Analyst II Supervising Accountant Systems Engineer I
435	Business Analyst Cultural Services Manager Emergency Medical Services Coordinator Integrated Waste Specialist Management Analyst Senior Personnel Analyst Weed and Seed Program Coordinator
436	Electrical Supervisor Senior Planner
437	

RANGE	TITLE
438	Budget Officer
	Events Supervisor
	Housing Program Supervisor
	Land Surveyor
	Property Agent
	Public Safety Business Services Analyst
	Senior Business Analyst
	Software Analyst III
	Systems Engineer II
439	Administrative Services Officer
	Community Facilities Districts Administrative Officer
440	Associate Civil Engineer
	Associate Traffic Engineer
	Transportation Planner
441	Airport Manager
	Building Maintenance Superintendent
	Fleet Manager
	Housing and Urban Development Manager
	Parks Operations Superintendent
	Parks Planning and Development Manager
	Purchasing Manager
	Recreation Program Manager
	Streets Superintendent
	Urban Forestry Superintendent
	Wastewater Collections Superintendent
	Water Superintendent
442	Customer Services Division Manager
	Manager of Budget and Financial Analysis
	Software Analyst IV
	Supervising Building Inspector
	Supervising Construction Inspector
	Systems Engineer III
443	

Exhibit "A"

RANGE	TITLE
444	Deputy Chief Building Official Principal Planner Solid Waste Program Manager Transit Manager
445	Accounting Division Manager
446	Water Quality Control Superintendent Information Technology Unit Manager
447	Business Development Division Manager Chief Building Official Planning Division Manager Senior Civil Engineer Traffic Engineer
448	
449	
450	
451	
452	
453	
455	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-029

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH BRYCE CONSULTING, INCORPORATED TO CONDUCT CLASSIFICATION STUDY AND REVIEW OF INTERNAL SALARY ALIGNMENT IN AN AMOUNT NOT TO EXCEED $139,800, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, the City desires to obtain the services of Bryce Consulting, Incorporated (Bryce Consulting) to provide an organizational assessment, and

WHEREAS, the City desires to enter into a Standard Consultant Agreement with Bryce Consulting in the total amount of $139,800 which includes professional fees and expenses, and

WHEREAS, the firm of Bryce Consulting is specially trained, experienced and competent to conduct a classification study and internal salary relationship review of non-sworn positions within the City, and

WHEREAS, the public interest, economy and general welfare will be served by this agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Standard Agreement For Consultant Services with the firm of Bryce Consulting, Incorporated in the amount of $139,800 with respect to conducting a classification study and internal salary relationship review of non-sworn positions within the City.

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

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 2nd of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By R. Teresa Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-030

A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING BUDGET TO APPROPRIATE $139,800 FROM 0100-800-8000-8003 GENERAL FUND RESERVE TO 0100-030-0301-0235 PERSONNEL DEPARTMENT PROFESSIONAL SERVICES TO PROVIDE FUNDING FOR CLASSIFICATION STUDY.

WHEREAS, the City Council desires to implement a classification study in accordance with negotiated agreements with the City's non-sworn bargaining units, and

WHEREAS, the FY 06-07 costs associated with this classification study are not to exceed $139,800, and

WHEREAS, this expenditure has not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2006-07 Operating Budget is hereby amended to transfer $139,800 from the General Fund Reserve, 0100-800-8000-8003, to the Personnel Department, Professional Services, 0100-030-0301-0235.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Steven Mart
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-031

A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE BY THE ASSIGNED MODESTO POLICE DEPARTMENT CANINE HANDLER, OFFICER HART, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT WITH THE OFFICER FOR PURCHASE OF HIS POLICE CANINE.

WHEREAS, the Police Chief for the City of Modesto, from time to time, officially retires police canines from departmental service, and

WHEREAS, City of Modesto police canine handler, Officer Hart, wishes to purchase and assume possession of his assigned canine, Syler, upon the dog's official retirement, and

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of City of Modesto police canines by their assigned department handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Officer Hart for the purchase of his retired police canine, Syler, in the amount of One Dollar ($1.00) as more fully set forth in the Modesto Police Department Canine Transfer Contract attached hereto as **Exhibit "A"** and incorporated herein by this reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT, made and entered into in the City of Modesto, State of California, this **8th** day of **November, 2006**, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and Robert Hart, canine handler for the Modesto Police Department, hereinafter referred to as "HANDLER".

Facts:

Canine "Syler" has been with the Modesto Police Department since April of 1999. "Syler" has served the city for seven years. "Syler" was born in June of 1997 and will be ten years old in June of 2007. "Syler" has had a long and distinguished career as both a police service dog and a narcotic dog. "Syler" has reached an age where his health has begun to decline and he is slowing down. His ability to continue to do police work is no longer there and it is my recommendation he be retired from service.

This **AGREEMENT** is made with regard to the following recitals:

A. *HANDLER* wishes to assume ownership and take possession of that certain retired City of Modesto police canine named "Syler". *HANDLER* was previously the assigned canine handler for "Syler".

B. *HANDLER* wishes to maintain ownership of the above-referenced dog, and the CITY wishes to divest itself of both ownership and vicarious or direct liability for the subject dog.

C. CITY does hereby agree to relinquish all of its right, title and ownership interest in said dog whatsoever, effective upon *HANDLER's* execution and return of this document and payment of the sum of one and no/100ths dollars ($1.00) to the City of Modesto.

NOW, THEREFORE, in consideration of this AGREEMENT, the parties hereto agree as

follows:

1. *HANDLER* does agree to assume ownership of the Modesto police canine named "Syler", and to assume any and all risks, including, but not limited to, risk of injury or death to third persons, and to hold CITY, its police department, and its employees and/or agents or volunteers harmless from any and all liability, claims, administrative proceedings or other responsibility whatsoever arising from any injuries or damages that may occur on or after the date ownership of the dog is transferred pursuant to this AGREEMENT. That date is hereby fixed by agreement by and among the parties hereto as being **November 8, 2006**.

2. *HANDLER* further agrees to assume all liability for risks and dangers relating to his/her ownership of the subject police dog on and after the aforementioned date, and to indemnify and hold CITY harmless in the event that any legal or administrative action, whether by claim, demand or otherwise, is made by any person or entity as a consequence of or arising out of any event, act or disturbance involving the subject police dog on or after the date ownership is transferred. These hold harmless provisions shall extend to any direct or vicarious liability arising from any and all losses, liabilities, charges (including reasonable attorney fees and court costs), and any other expenses whatsoever which may arise in any manner after the new owners assumption of ownership on the date identified herein.

3. *HANDLER* must retain ownership of "Syler" for at least eighteen (18) months prior to any sale of the aforementioned retired police canine.

4. The retired police canine "Syler" shall revert to CITY should the purchaser, *HANDLER* determine he/she can no longer care for the aforementioned dog within the period of time commencing on the date of this AGREEMENT and ending eighteen (18) months from the date fixed by this AGREEMENT.

5. *HANDLER* acknowledges that he/she has read the foregoing AGREEMENT and understands that it is contractual in nature and understands each of its provisions.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has caused this Agreement to be executed in duplicate by its City Manager and attested by its City Clerk under authority of Resolution No. 99-370 adopted by the City Council of the City of Modesto on the 20th day of July, 1999.

NEW OWNER

Robert Hart, Handler

CITY OF MODESTO

George Britton, City Manager

ATTEST:

By
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By
Susana A. Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-032

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE INFORMAL REQUEST FOR BIDS (RFB) FOR A THREE (3) YEAR LEASE PURCHASE OF A TRIMBLE S6 3" ROBOTIC TOTAL STATION, FOR THE PUBLIC WORKS DEPARTMENT, CONSTRUCTION ADMINISTRATION DIVISION, FOR A TOTAL ESTIMATED COST OF $45,000.

WHEREAS, the Public Works Department, Construction Administration Division purchased a Topcon 802A Total Station in April 1999 and upgraded it to an 802AR Robotic Total Station in September 2000, and

WHEREAS, in March 2004 the Public Works Department, Construction Administration Division purchased the Trimble 5800 GPS Rover and Base Station, and

WHEREAS, Total Station technology has improved significantly since September 2000, and

WHEREAS, operating the Topcon Total Station with the Trimble 5800 GPS Rover has compatibility issues, especially the communication between the Topcon Total Station and the Trimble GPS equipment, and

WHEREAS, there are issues with the different software packages required for downloading and processing the survey data collected from the two different brands of equipment, and

WHEREAS, dealing with different manufacturers for technical support, maintenance, repair and service causes problems and delays, and

WHEREAS, replacing the Topcon 802AR Total Station with the Trimble S6 3" Robotic Total Station is cheaper than replacing the Trimble 5800 GPS Rover and Base Station with a Topcon GPS Rover and Base Station, and

WHEREAS, purchase of the Trimble S6 3" Robotic Total Station will eliminate the need for the extra data collector, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid. However, one exception to the code (8-3.204 (c)), allows for the Purchasing Manager, in his or her discretion, to determine that calling for formal bids on a competitive basis, as set forth in Section 8-3.203 is undesirable due to demanding circumstances, and

WHEREAS, based on the critical nature of the request the Purchasing Manager evoked that exception for this purchase. The solicitation of informal competitive bids for a three (3) year lease purchase of a Trimble S6 3" Robotic Total Station, for the Public Works Department, Construction Administration Division, for a total estimated cost of $45,000, will conform to Modesto Municipal Code Section 8-3.203, and demonstrate that a competitive process was met

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue an informal request for bids for a three (3) year lease purchase of a Trimble S6 3" Robotic Total Station for the Public Works Department, Construction Division, for a total estimated cost of $45,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Steven Mott
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-033

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH LARRY WALKER ASSOCIATES IN THE AMOUNT OF $136,226, REFLECTING THE REVISED SCOPE OF SERVICES AND REVISED COST ESTIMATE FOR PROFESSIONAL SERVICES FOR THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT RENEWAL FOR DISCHARGE TO THE SAN JOAQUIN RIVER, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT.

WHEREAS, on August 3, 2005, by Resolution No. 2005-389, Council approved an agreement with Larry Walker Associates in the amount of $242,000 for professional services for the Wastewater Treatment Plant NPDES permit renewal to discharge to the San Joaquin River, and

WHEREAS, the draft Wastewater Master Plan proposes an additional 4.8 mgd of year-round discharge to the San Joaquin River, and

WHEREAS, as a result of the proposed year-round discharge, the Regional Board will be requiring an Antidegradation Analysis for the NPDES Permit renewal, and

WHEREAS, Regional Board staff will require an "antidegradation" review as part of the NPDES renewal, and

WHEREAS, because of experience with other antidegradation reviews, it is recommended that Larry Walker Associates perform the Antidegradation Analysis, and

WHEREAS, this analysis broadens the original Reasonable Potential Analysis (RPA) effort as described on the original Scope of Services Task 2.3, and

WHEREAS, the Scope of Services has been revised to reflect the most current tasks for this contract, and

WHEREAS, the cost for this additional analysis is $136,226, making the project total cost $378,226, and

WHEREAS, funds are budgeted in Account 6210-480-5217-0235 for the additional scope of work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Amendment to the Agreement with Larry Walker Associates in the amount of $136,226, reflecting the revised Scope of Services and revised Cost Estimate for professional services for the NPDES Permit renewal for discharge to the San Joaquin River.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: S. Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-034

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH CAROLLO ENGINEERS FOR ON-CALL ENGINEERING SERVICES IN THE AMOUNT OF $70,000, REFLECTING THE REVISED SCOPE OF SERVICES FOR FY2006-07, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT.

WHEREAS, on January 3, 2006, Council approved an on-call engineering services agreement with Carollo Engineers in the amount of $44,000 annually, and

WHEREAS, the on-call engineering services contractor for Water Quality Control (WQC) performs a number of critical tasks requiring engineering services that are currently not available in-house, and

WHEREAS, during the initial contract period with Carollo Engineers for on-call engineering services, they have assisted with the following:

- FEMA Evaluation – Carollo was used to gather detailed engineering estimates for the City to provide FEMA regarding damages to the Jennings Treatment Plant and Ranch area. Staff anticipates receiving up to $89,000 in FEMA funds from this effort.
- River Discharge Evaluation – Due to early season flooding on the ranch land and high water levels in the City's storage ponds, Carollo assisted the City with bench-scale testing and treatment design prior to discharging waters into the San Joaquin River one month earlier than usual. This action prevented the overflow or discharge of wastewater in excess of the City's NPDES permit limitations
- Ranch RFP Development – Carollo is assisting in the development of conditions for a new lease of ranch land scheduled for summer 2007

WHEREAS, of the above tasks, the Ranch RFP Development was the only anticipated project, and

WHEREAS, spring rains and excessive flooding required staff to utilize the on-call engineering services, and

WHEREAS, these tasks have depleted the funds in the contract and additional funds are needed to cover additional on-call engineering services, and

WHEREAS, staff is requesting an increase in the annual funding of this contract for FY2006-07 only in the amount of $70,000, increasing the contract amount from $44,000 to $114,000, and

WHEREAS, funds are budgeted in the amount of $35,000 each from Account 6210-480-5213-0235 and 6210-480-5214-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to the Agreement with Carollo Engineers for on-call engineering services in the amount of $70,000, reflecting the revised scope of services for FY2006-07.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: R. Stevens, Asst.
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-035

A RESOLUTIONAUTHORIZING THE TRANSFER OF FUNDS IN THE AMOUNT OF $192,000 FROM FLEET SERVICES RESERVES (7210-800-8000-8003) TO FLEET SERVICES REPLACEMENT (7210-480-5814-5700) TO COVER THE COST FOR ADDITIONAL VEHICLES AND EQUIPMENT FOR THE SECONDARY TREATMENT PLANT.

WHEREAS, the Secondary Treatment Plant (STP) has paid funds in the amount of $192,000 into the Fleet Reserve in preparation of adding one 14-yard dump truck, one backhoe and backhoe trailer, and one forklift, and

WHEREAS, the estimated purchase price for the additional vehicles and equipment is $192,000, and

WHEREAS, it is necessary to transfer funds from Fleet Services Reserve (7210-800-8000-8003) to the Fleet Services Replacement Account (7210-480-5814-5744, 5745, 5746) to cover the purchase of the additional vehicles and equipment, and

WHEREAS, the Finance Committee, at its December 14, 2006 meeting, recommended approval of this item,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds in the amount of $192,000 from Fleet Services Reserve (7210-800-8000-8003) to Fleet Services Replacement (7210-480-5814-5700) to cover the cost for additional vehicles and equipment for the Secondary Treatment Plant.

BE IT FURTHER RESOLVED that the Finance Department is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

BY: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: R. Steven Hart

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-036

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BIDS FOR THE PURCHASE OF ADDITIONAL VEHICLES AND EQUIPMENT FOR THE SECONDARY TREATMENT PLANT.

WHEREAS, the Secondary Treatment Plant (STP) has paid funds in the amount of $192,000 into the Fleet Reserve in preparation of adding one 14-yard dump truck, one backhoe and backhoe trailer, and one forklift, and

WHEREAS, the current twenty-eight foot trailer has limitations in small areas such as the oxidations ponds, and on the roads and bridges, and

WHEREAS, in the past, smaller dump trucks have been rented to do this work, at a cost of over $100,000 since 2001, and

WHEREAS, the cost of a new 14-yard dump truck is approximately $90,000, and

WHEREAS, this vehicle will be needed when the construction of new facilities at the STP begin within the next months, and

WHEREAS, the current backhoe is two-wheel drive and is not meeting the current needs of the Plant and the existing trailer cannot be used with the new backhoe, and

WHEREAS, the current backhoe will be replaced with a four-wheel drive unit, which has better traction to meet the needs at the STP on a year-round basis, including adverse conditions caused from heavy rains, and

WHEREAS, a trailer for the backhoe is needed to move the backhoe to different locations around the STP, and

WHEREAS, the Secondary Treatment Plant currently uses the Compost Facility forklift, and

WHEREAS, with the current amount of materials coming in and the amount that will be coming in with the planned construction, it is necessary to have a forklift designated for the STP, and

WHEREAS, funds are budgeted in Fleet Services Replacement (7210-480-5814-5744, 5745, 5746) in the amount of $192,000 to fund the purchase of these additional vehicles and equipment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to solicit formal bids for the purchase of additional vehicles and equipment for the Secondary Treatment Facility.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST:
Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: R. Steven Mott
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-037

A RESOLUTION APPROVING THE PROJECT, INCLUDING PLANS AND SPECIFICATIONS, FOR THE PROJECT TITLED "DISSOLVED AIR FLOTATION FACILITY," ACCEPTING THE BID AND APPROVING A $6,010,403.00 CONTRACT WITH KAWEAH CONSTRUCTION CO., FOR THE PROJECT TITLED, "DISSOLVED AIR FLOTATION FACILITY," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, plans and specifications have been prepared for the project titled "Dissolved Air Flotation Facility" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Dissolved Air Flotation Facility" were opened at 11:00 a.m. on November 14, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $6,010,403.00 received from Kaweah Construction Co., be accepted as the lowest responsible bid and the contract be awarded to Kaweah Construction Co.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the "Dissolved Air Flotation Facility" project, including the plans and specifications.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of Kaweah Construction Co., in the amount of $6,010,403.00, and hereby awards Kaweah Construction Co., the contract titled "Dissolved Air Flotation Facility."

BE IT FURTHER RESOLVED that Kaweah Construction Co. will receive an incentive for every day of beneficial use of the DAFF according to the following schedule:

$2,000/day – 4 DAF units
$1,500/day – 3 DAF units
$1,000/day – 2 DAF units
No incentive for less than 2 DAF units.

The incentives for beneficial use of the DAF are only valid during the 45-day period between October 1, 2007 and November 15, 2007. If the beneficial use of the DAF is delayed beyond this period for any reason, no incentives will be paid and Kaweah Construction Co. shall have no right to claim any portion of the incentive that would be paid had the delay not occurred.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-038

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH CONSOLIDATED CM FOR CONSTRUCTION MANAGEMENT SERVICES OF THE DISSOLVED AIR FLOTATION FACILITY PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $698,716, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on January 2, 2007, concurrently City Council awarded by Resolution No. 2007-037 a construction contract in the amount of $6,010,403.00 to Kaweah Construction Co., to construct the Dissolved Air Flotation (DAF) Facility Project, and

WHEREAS, the Dissolved Air Flotation (DAF) Facility Project is a large specialized project that will require augmentation of the City's capacity to provide construction management and inspection, and

WHEREAS, due to the complexity of the construction of the DAF Facility and current staffing levels, a construction management company is being tasked with the management of the project, and

WHEREAS, the selection process for construction management services followed the City's selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed a Request for Qualifications for engineering design services to all firms that had previously indicated an interest in providing construction management services to the City, and

WHEREAS, three specialized consulting firms of construction management services were asked to provide a proposal, and

WHEREAS, the City's Selection Committee reviewed the proposals submitted and held interviews with the three firms, and

WHEREAS, the firm of Consolidated CM was considered to be the most qualified to provide construction management services for the project, and

WHEREAS, Consolidated CM is a respected construction management firm that specializes in wastewater projects, and

WHEREAS, their proposed construction manager, Dave Lee, has over 30 years of experience in managing construction projects similar to the DAFF. He holds a Grade V wastewater operators license, and is a registered Civil Engineer. In addition to his construction management experience, he has served as an expert witness for construction claims, and

WHEREAS, CIS staff recommends the consulting firm of Consolidated CM be awarded a contract to perform the construction management services as current workload and experience levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with Consolidated CM in an amount not-to-exceed $698,716.00 to perform construction management services of the Dissolved Air Flotation (DAF) Facility Project, and

WHEREAS, Consolidated CM will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Construction Management Services with Consolidated CM in an amount not-to-exceed $698,716.00 for construction management services of the Dissolved Air Flotation (DAF) Facility Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By R. Steven Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-039

A RESOLUTION AMENDING THE AGREEMENT WITH MINAGAR & ASSOCIATES, INC., IN THE AMOUNT OF $11,812, EXPANDING THE SCOPE OF WORK WITH THE ADDITION OF SIGNAL TIMING OPTIMIZATION WITH 90-SECOND CYCLE LENGTH FOR G, H, 9TH, AND NEEDHAM STREETS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on November 25, 2003, by Resolution No. 2003-621, the City Council approved a Consultant Services Agreement with Minagar & Associates, Inc., in the amount of $179,279, for a Traffic Signal Synchronization Study for traffic signals in downtown Modesto to improve traffic signal synchronization, and

WHEREAS, the City has requested that the agreement be modified to allow for expanding the Scope of Work with the addition of signal timing optimization with 90-second cycle length for G, H, 9th, and Needham Streets, and

WHEREAS, all funds are programmed in the Capital Improvement Program Account 2300-160-N062, "Traffic Coord Downtown (100)," and

WHEREAS, modifying the Scope of Work with Minagar & Associates, Inc., will have a financial impact to the project of $11,812 for the cost of additional Scope of Work, and

WHEREAS, Minagar & Associates, Inc., has completed the addition of signal timing optimization with 90-second cycle length for G, H, 9th, and Needham Streets, and

WHEREAS, the Economic Development Committee at their December 11, 2006, meeting reviewed this Amendment to the Agreement with Minagar & Associates, Inc., in

the amount of $11,812, expanding the scope of work with the addition of signal timing optimization with 90-second cycle length for G, H, 9th, and Needham Streets.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Agreement with Minagar & Associates Inc., in the amount of $11,812, expanding the Scope of Work with the addition of signal timing optimization with 90-second cycle length for G, H, 9th, and Needham Streets.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: R. Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-040

A RESOLUTION AUTHORIZING THE PARKS, RECREATION, AND NEIGHBORHOODS DEPARTMENT TO ISSUE A REQUEST FOR PROPOSALS FOR A SITE ASSESSMENT AND DEVELOPMENT OF A MITIGATION AND MONITORING PLAN FOR THE CLOSED CARPENTER ROAD LANDFILL.

WHEREAS, the City of Modesto operated the Carpenter Road landfill from 1956 until its closure in 1968, and

WHEREAS, as the owners of the landfill site, the City of Modesto is responsible for current maintenance and repair, and

WHEREAS, monitoring wells located on the site have indicated the presence of methane gas at the boundaries of the landfill in excess of statutory limits, and

WHEREAS, the California Integrated Waste Management Board is requiring the City to determine the cause of the high methane readings and develop a Mitigation and Monitoring Plan to ensure that the closed landfill remains in compliance with the statutes, and

WHEREAS, staff is recommending that the Council authorize the Parks, Recreation and Neighborhoods Department to issue a Request For Proposals (RFP) for the preparation of a Site Assessment and development of a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on December 12, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and

WHEREAS, by a memo dated December 6, 2006, staff requested that the public hearing be continued until January 2, 2007, to allow staff time to incorporate additional information, and

WHEREAS, on December 12, 2006, the City Council, by motion, approved continuing the hearing to January 2, 2007, and

WHEREAS, a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the Parks, Recreation and Neighborhoods Department should be authorized to issue a Request For Proposals (RFP) for the preparation of a Site Assessment and development of a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Parks, Recreation and Neighborhoods Department to issue a Request For Proposals (RFP) for the preparation of a Site Assessment and development of a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-041

A RESOLUTION AUTHORIZING THE CREATION OF A CARPENTER ROAD LANDFILL MITIGATION FUND; AND AUTHORIZING A GENERAL FUND TRANSFER TO FUND UP TO $150,000 FOR AN RFP FOR A SITE ASSESSMENT AND DEVELOPMENT OF A MITIGATION AND MONITORING PLAN FOR THE CARPENTER ROAD LANDFILL.

WHEREAS, the City of Modesto operated the Carpenter Road landfill from 1956 until its closure in 1968, and

WHEREAS, as the owners of the landfill site, the City of Modesto is responsible for current maintenance and repair, and

WHEREAS, monitoring wells located on the site have indicated the presence of methane gas at the boundaries of the landfill in excess of statutory limits, and

WHEREAS, the California Integrated Waste Management Board is requiring the City to determine the cause of the high methane readings and develop a Mitigation and Monitoring Plan to ensure that the closed landfill remains in compliance with the statutes, and

WHEREAS, staff has recommended and the Council has approved and authorized the Parks, Recreation and Neighborhoods Department to issue a Request For Proposals (RFP) for the preparation of a Site Assessment and development of a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill, and

WHEREAS, this Mitigation and Monitoring work will require a funding source, and staff is recommending the establishment of a Carpenter Road Landfill Mitigation Fund, initially as a sub-fund of the Solid Waste Fund, and subsequently as a separate Fund with the adoption of the FY 2007-2008 Budget, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on December 12, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and

WHEREAS, by a memo dated December 6, 2006, staff requested that the public hearing be continued until January 2, 2007, to allow staff time to incorporate additional information, and

WHEREAS, on December 12, 2006, the City Council, by motion, approved continuing the hearing to January 2, 2007, and

WHEREAS, a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the Parks, Recreation and Neighborhoods Department should be authorized to issue a Request For Proposals (RFP) for the preparation of a Site Assessment and development of a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill, and

WHEREAS, it was found and determined by the Council of the City of Modesto that a Carpenter Road Landfill Mitigation Fund should be established, initially as a sub-fund of the Solid Waste Fund, and subsequently as a separate Fund with the adoption of the FY 2007-2008 Budget, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the General Fund should loan the Carpenter Road Landfill Mitigation Fund up to $150,000 to perform the Site Assessment and develop the Mitigation and Monitoring Plan, with the General Fund to be reimbursed via the garbage rates or from some other funding source upon determination of the actual cost of this work, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes that a Carpenter Road Landfill Mitigation Fund is established as a sub-fund of the Solid Waste Fund, to be subsequently established as a separate Fund with the adoption of the FY 2007-2008 Budget, and that the Finance Director or his designee is hereby authorized to take the steps necessary to implement this provision.

BE IT FURTHER RESOLVED that the General Fund shall loan the Carpenter Road Landfill Mitigation Fund up to $150,000 to perform the Site Assessment and develop the Mitigation and Monitoring Plan, with the General Fund to be reimbursed via the garbage rates or from some other funding source upon determination of the actual cost of this work.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-042

A RESOLUTION DESIGNATING THE PROPERTY AT 218 ELMWOOD COURT AS A MODESTO LANDMARK PRESERVATION SITE (OWNER: CHEZ LUNDGREN)

WHEREAS, Chapter 10 of Title 9 of the Modesto Municipal Code establishes Landmark Preservation Site status as a way to recognize, preserve, enhance and perpetuate significant landmarks in the community, and

WHEREAS, a public hearing was held on September 18, 2006 at the McHenry Museum, 1402 I Street, Modesto, California, in which the Landmark Preservation Commission found and recommended in their Resolution No. 2006-3, that the property at 218 Elmwood Court is eligible for designation as a Landmark Preservation Site for the following reasons:

(1) The location and setting is compatible with future preservation and use.
(2) The physical condition is such that preservation, maintenance or adaptive use is economically feasible.
(3) The distinguishing characteristics of significance are for the most part original and intact or capable of restoration.
(4) The existing or proposed use is compatible with the preservation and maintenance of the site

and

WHEREAS, the Safety and Communities Committee met on December 4, 2006 and supported the Landmark Preservation Commission recommendation, and

WHEREAS, a report dated December 15, 2006, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendation, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on January 2, 2007, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and

WHEREAS, a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, after said public hearing, the Council found and determined that the property at 218 Elmwood Court is eligible for designation as a Landmark Preservation Site for reasons set forth by the Landmark Preservation Commission,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the property located at 218 Elmwood Court is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the property at 218 Elmwood Court has historical significance for the following reason:

This 1926 Provincial-style house was part of the Coldwell subdivision, which was formed on August 24, 1903 and owned by Virginia Coldwell. Mr. and Mrs. Coldwell came to Stanislaus County in 1875 and purchased a 400-acre ranch about three miles north of Modesto. The subdivision was not developed until the mid to late 1920's.

BE IT FURTHER RESOLVED that the property at 218 Elmwood Court has architectural significance as a Provincial-style house from the 1920's and is hereby designated a Landmark Preservation Site for the following reason:

> Architectural significance-Possessing distinctive characteristics of a style, place, period, method or materials or construction, builder or architect.
>
> Built in 1926, this one-story Provincial-style house is sheathed in rough stucco and topped by a steeply pitched roof with intersecting gables and exposed rafters. There are two front facing gables with the front gable containing a louvered vent in the peak and a multipaned casement window. The second gable is recessed slightly behind the front and lower gable and shelters the main entrance in a small porch with arched openings. A large arched stationary window with a single center pane flanked by multipane side lights faces the street. There is an exterior chimney to one side of the house. This house design was a popular Revival style in the 1920's.

BE IT FURTHER RESOLVED that pursuant to Section 9-10.104(e)(1) of the Modesto Municipal Code, the City Clerk shall record a copy of this resolution with the County Recorder's Office of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

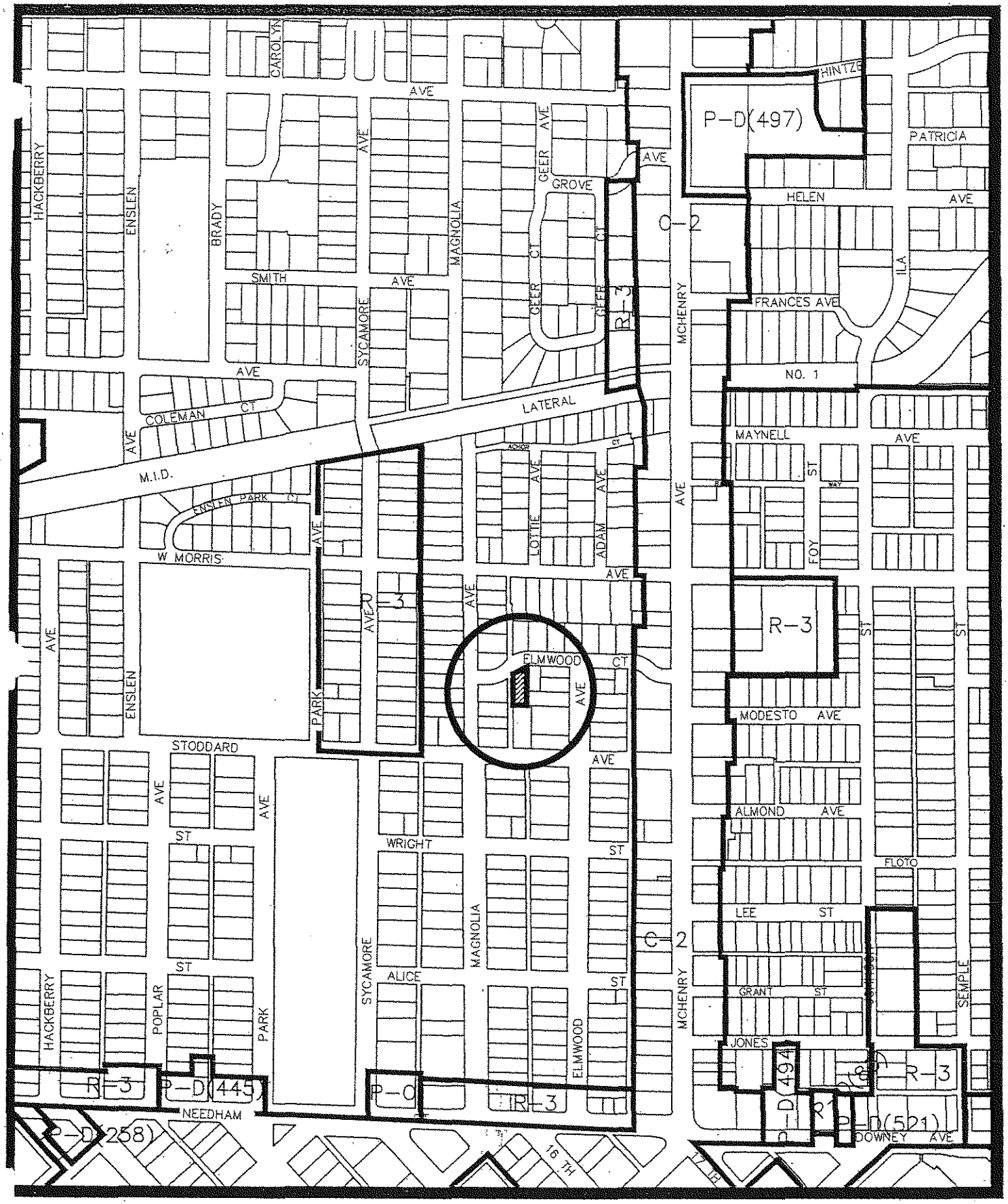
AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney



North

AREA MAP OF PROPOSED
LANDMARK PRESERVATION SITE# 57

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-043

A RESOLUTION DESIGNATING COUNCILMEMBER HAWN TO SERVE AS VICE MAYOR FOR THE ENSUING YEAR PURSUANT TO SECTION 603 OF THE CHARTER OF THE CITY OF MODESTO.

BE IT RESOLVED by the Council of the City of Modesto that Councilmember Hawn is hereby designated to serve as Vice Mayor for the ensuing year pursuant to Section 603 of the Charter of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2007, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: R. Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-044

A RESOLUTION APPROVING TASK ORDER NO. 4 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH HARRIS AND ASSOCIATES, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE TIVOLI SPECIFIC PLAN AREA

WHEREAS, the City Council is desirous of creating a Facilities Master Plan ("FMP") and Infrastructure Finance Plan ("IFP") for the Tivoli Specific Plan Area ("Project"), and

WHEREAS, Russell A. Newman, Professional Law Corporation ("Applicant"), has a legal interest in real property located within the Tivoli Specific Plan Area, shown in **Exhibit "A"**, and is interested in pursuing development of properties in the Specific Plan Area, and

WHEREAS, on September 26, 2006, by Resolution No. 2006-599, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services with Harris and Associates ("Consultant"), for the preparation of FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, Consultant has prepared Task Order No. 4 ("Task Order") for the Project, attached as Exhibit "B", and

WHEREAS, Applicant has advanced a deposit in the amount of three hundred thousand dollars ($300,000) to the City to fund a portion of Task Order No. 4 and to pay staff and consultant expenses expected to be incurred in connection with the Project, and

WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund the Task Order, and

WHEREAS, the City will issue Notices to Proceed to the City's Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Task Order No. 4, attached as **Exhibit "B"** hereto is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

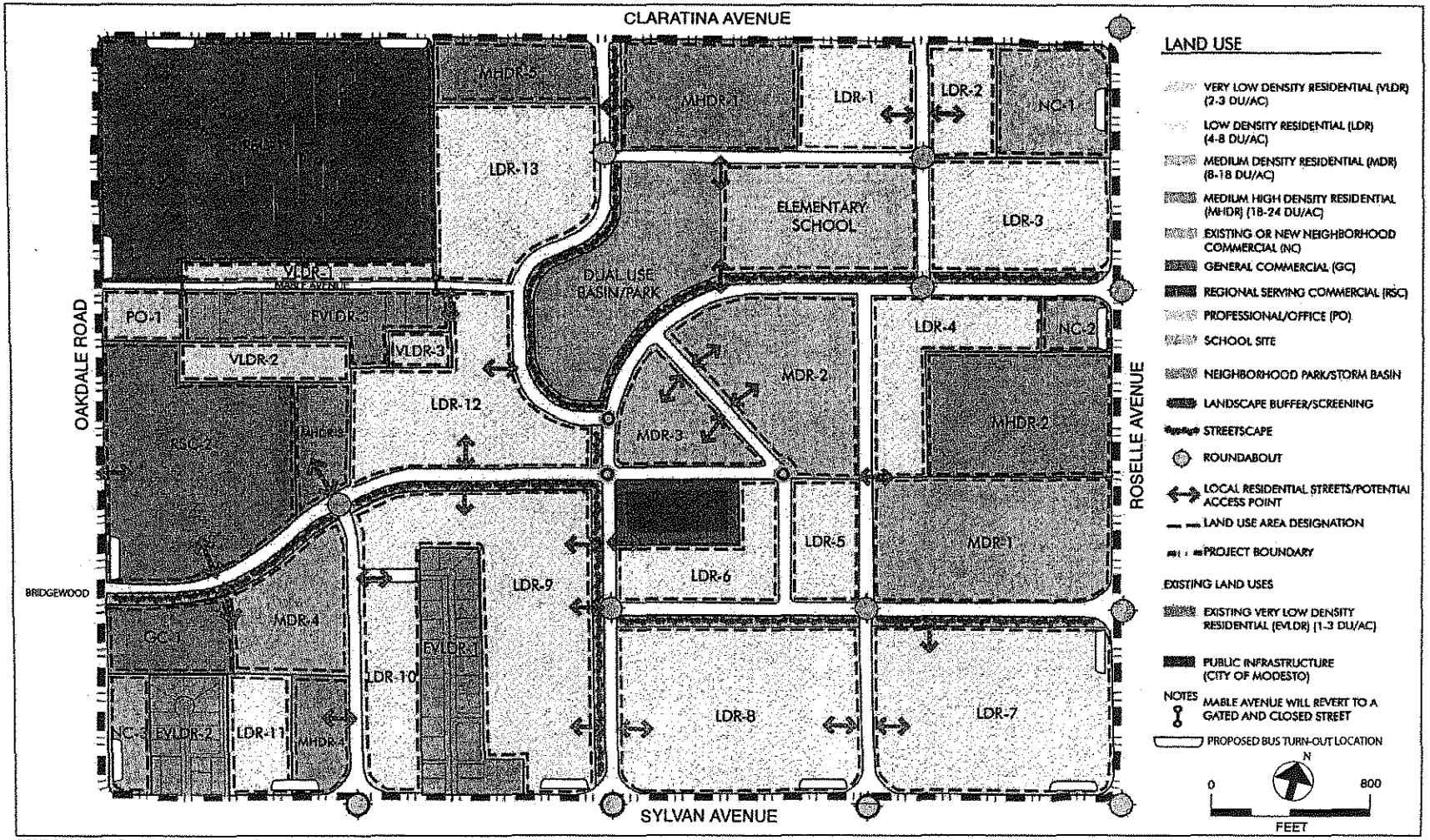
AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A



SOURCE: Dahlin Group, Turnstone Consulting

EXHIBIT B

City of Modesto
TASK ORDER NO. 4
for
Harris & Associates
Master Professional Services Agreement for Consultant Services

Tivoli Specific Plan Area FMP/IFF

This Task Order No. 4 is made and entered into by and between the City of Modesto, a municipal corporation (hereinafter "CITY"), and Harris and Associates, a California corporation (hereinafter "CONSULTANT") and is effective as of _____, 2007.

RECITALS

A. CONSULTANT has entered into a Master Professional Services Agreement for Consultant Services, (hereinafter "Agreement"), dated September 26, 2006 ("AGREEMENT") with the CITY, by which the CONSULTANT has agreed to provide professional engineering and financial engineering services for various development projects, which is incorporated herein by reference.

B. At the request of CITY and in compliance with the terms of the AGREEMENT, CONSULTANT has prepared the Task Order No. 4, a copy of which is attached hereto as Exhibit A.

C. CITY and CONSULTANT desire that CONSULTANT perform the services as identified in the attached Task Order.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION OF MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Professional Services Agreement, unless expressly modified by this Task Order. The AGREEMENT and this Task Order shall, to the fullest extent possible, be read and considered as fully integrated documents and shall be interpreted so as to avoid inconsistencies, comply with all applicable laws and ensure that the objectives of the parties will be fully realized.

   Nothing in this Task Order is intended to supersede, terminate, modify or otherwise affect any provision of the AGREEMENT, except to the extent that a provision of this AGREEMENT is in direct and irreconcilable conflict with a provision of the AGREEMENT. Then, and only in that event, the provisions of the AGREEMENT shall prevail over the contradictory provision of the Task Order.

2. **SCOPE OF SERVICES**. CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not listed in this Task Order, without the prior written consent of CITY.

3. **TIME OF PERFORMANCE**. CONSULTANT shall commence performance within five (5) working days after receipt of a Notice to Proceed from City, and shall complete all required services no later than the dates set forth in Exhibit "A".

4. **COMPENSATION**. For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed $704,043. CONSULTANT shall be paid at the times and in the manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Task Order.

5. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the CONSULTANT and CITY. This Task Order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2007-_____, adopted by the Council of the City of Modesto on the ____ day of _____, 2007, and _____ has caused this Agreement to be duly executed in duplicate as of the Effective Date set forth above.

CITY OF MODESTO,
a municipal corporation

By _____
GEORGE W. BRITTON,
City Manager

CONSULTANT,
Harris & Associates, a California corporation*

By _____
Name Steven E. Robert Title V.P.

By _____
Name Title
Guy A. Erickson President

(Seal)

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By _____
ALISON A. BARRATT-GREEN,
Senior Deputy City Attorney

Consultant's Federal ID # 94-2385238

ATTEST:

** Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.*

Partnership - signature of a partner required

By _____
JEAN MORRIS, City Clerk

Exhibit "A"

Harris & Associates
Scope of Work
For Task Order No. 4
Tivoli Development Project
Preparation of the Facilities Master Plan
and Infrastructure Financing Plan
December 27, 2006

The following describes Harris and Associates' (Harris) approach and level of effort for this scope of work. There are four sub consultants on this project; West Yost and Associates for Water; Carollo Engineers for Wastewater; Omni Means for Traffic; and Stantec for Storm Drainage. The scopes of work for each of the sub consultants are shown in Exhibits A through D. The cost estimate for Harris' hours and the sub-consultants are summarized in Exhibit E. Harris' hourly rates are shown in Exhibit F. In addition, Goodwin Consulting Group will prepare the necessary documents for the Community Facilities District. That fee is included in Exhibit D.

The following work will be performed on a time and materials (four sub-tasks):

- Task 4.1 reviews the technical studies associated with the project's Final EIR and defines the obligation (benefit and burden) that each acre of land within the development will have for infrastructure improvements;
- Task 4.2 produces the infrastructure financing plan for the build out of the Tivoli development and specifically sets the financing for the Capital Improvement Projects that are triggered by the development and anticipated during the first 10 years. The City and developer will define the phasing of development and the costs as identified in Task 4.1;
- Task 4.3 prepares of the Facilities Master Plan for the proposed development.
- Task 4.4 establishes the Community Facilities District formation

Task 4.1 – Preparation of a Benefit and Burden Analysis

The City will provide all of the technical studies prepared for the project's Final EIR, and Harris will review the required data on land uses that are anticipated in the Tivoli Specific Plan Area. Harris will collect from the developer, with the City's help, this land use data in electronic format. The land use data will include the development layout, irrigation areas (potable water demand), land uses, acreage, dwelling units, square footage of non-residential building space, pavement areas, and planned layout of the arterial streets and internal street network, which will be the responsibility of the project on and off-site infrastructure, as outlined in the project's Specific Plan and Draft EIR. Harris will also review the Draft Environmental Impact Report to determine all recommended mitigation measures

Harris will describe each type of capital facility that has been and will need to be constructed to serve the Tivoli Specific Plan Area. This data will be given to each of the sub-consultants to prepare the necessary reports to support the development of the Infrastructure Finance Plan

(IFP). These sub-consultants' reports will tier off the work completed for the Draft EIR by the City, and will include conceptual layouts and cost estimates of the infrastructure needed to support build-out of the development.

Based on the existing technical studies for the EIR and the new studies to support the IFP, Harris will prepare a Benefit and Burden Analysis. This analysis will define the infrastructure and cost burden that each land use will receive from the infrastructure that will be included in the IFP and detailed in the Facilities Master Plan (FMP). It will also identify the cost burden that each acre of land will have towards public facility improvements, by land use, at build-out of the development area. The benefit and burden analysis will also identify those projects that will need to be funded up-front by the developer in order to allow the development to proceed regardless of how the developer chooses to phase the construction of the project. This analysis will not define how these costs will be paid for. The analysis will be prepared for the entire development at build-out. As the project is further defined, if a phased Benefit and Burden Analysis is proposed, additional scope and consultant fees will be required.

Traffic Assessment – Omni-Means, Ltd.

Based on provided traffic model updated by Downling and Associates, Omni-Means will perform a "select link" analysis to identify traffic improvements required to mitigate the Tivoli development impact. These improvements will be determined based on existing deficiencies and the proportion of total improvements needed for new development phasing. Omni-Means will also prepare cost estimates for these mitigation projects, including cost per square foot for right-of-way acquisition. The traffic fee will be developed and applied on a cost per trip generation rate for each land use. Additionally, possible alternative funding sources will be reviewed and evaluated.

Water Capacity Study – West Yost associates (WYA)

Based on provided information regarding land use, roadway alignments, etc. WYA will model the proposed water system for project build-out. WYA will modify the existing water system hydraulic model to be representative of the new water demands of the project. This model will then be used to evaluate the potential hydraulic impacts of adding the new water demands required to serve the project on the City's existing water system. If the City's existing water system cannot meet the City's minimum water system design criteria with the increased demands, then WYA will make recommendations for whatever new water supply sources and/or water system infrastructure facilities will be required to mitigate the hydraulic impacts of the Project for both build-out and project phasing. WYA will prepare an estimate of the probable construction costs for the infrastructure required to provide adequate supply.

Wastewater – Carollo Engineers

Based on provided land use information, Carollo will update the hydraulic model to reflect changes in planning assumptions that have occurred since they completed the 2005 Final Wastewater Capacity Study. Carollo will revise needed sewer improvements to reflect changes in planning assumptions. The collection system and WWTP improvements will also be revised as necessary to accommodate growth based on revisions to the hydraulic model and updates to the WWTP Master Plan currently being prepared by Carollo. Carollo will develop probable construction cost estimates to reflect changes in the Capacity Study.

Storm Drain - Stantec

Based on provided land use information, existing studies, and Developer provided grading plans and detention basin plans and inverts, Stantec will define drainage sub-basin areas and perform hydrologic evaluations to determine10-year and 100-year discharges that will be generated by the development at build-out. Stantec will additionally provide peer review of the proposed dual use detention basin to access conformance to existing City guidelines.

Harris will participate in one (1) City Council presentation associated with this task, as well as three (3) meetings with staff and the developer. Harris will also set and attend meetings related to each infrastructure analysis with the sub consultants and various City departments as necessary. The Benefit and Burden analysis will define water, sewer, traffic, park, storm drainage and public and government facilities impacts.

Harris will provide ten (10) copies of the Draft Benefit and Burden Analysis for review by the City staff. Once written comments have been received, at the City's direction, a final draft will be prepared for review by the developers. At this point, Harris will try to reach consensus among the parties in order to proceed with a facility cost summary that all agree is appropriate. Twenty (20) final copies, including 1 electronic copy, will be provided to the City once all final comments have been received and incorporated.

Harris will assist the City in the preparation of the City Council staff report associated with the presentation of the Tivoli Development Benefit and Burden Analysis.

Estimated Level of Effort and Costs for Task 4.1:

Firm	Hours	Costs	Meetings in Scope
Harris - PM	460	$ 69,540	3 w/staff; 1 w/Council
West Yost - Water	180	$ 28,000	
Carollo - Wastewater	200	$ 37,500	2 w/staff
Omni-Means - Traffic	292	$ 43,660	2 w/staff
Stantec - Drainage	164	$ 18,011	2
Mark-ups on Subs		$ 12,717	
Totals	**1,296**	**$ 209,428**	

Deliverables for Task 4.1

10 copies of the draft Benefit and Burden Analysis
10 copies of a final draft of the Benefit and Burden Analysis
20 copies of the final Benefit and Burden Analysis
1 electronic copy of the final Benefit and Burden Analysis.

Task 4.2 – Infrastructure Finance Plan

After the Benefit and Burden analysis is completed and prior to beginning the Infrastructure Finance Plan or Facilities Master Plan, Harris will meet with the developer and the City to determine how all of the infrastructure project costs will be paid. These payment methods include: 1) Developer "build and dedicate", 2) condition of approval on the development mapping, 3) defined points within a development agreement, 4) part of a land secure financing district and/or 5) paid for by the development impact fees for the Tivoli development.

Harris will work with the City and developer(s) to set project phasing. Harris, the sub-consultants and the City will build upon the Benefit and Burden analysis, and shall meet with and proceed with the coordination of all Finance Plan Consultants, including City CFD staff, the Appraiser, and Bond Counsel (assumed to have separate contracts with the City) regarding assumptions upon which the Tivoli Development Project IFP shall be performed.

The purpose of the IFP will be to clearly describe what is expected to occur with regard to land uses, infrastructure costs and financing. This is an iterative process that will require consensus building among all of the stakeholders. Harris will play an integral role in generating this consensus.

The IFP will define the financing details related to water, sewer, storm drainage, traffic, public facilities and parks. For those portions of the infrastructure that are associated with impact fees being prepared by Harris or the CFD being prepared by the City, a cash flow analysis will be provided defining when each project is anticipated and can be funded.

Harris will prepare a Draft Infrastructure Finance Plan based on the Technical Analyses performed by the Sub-consultants to include for each program: a project detail sheet, the project description, the itemized project costs, the capital improvement program (CIP) numbers, a priority list of projects, and cash flow projections based upon estimated revenue from fees and debt financing.

Upon approval of the draft plan, Harris will assist City staff in two (2) City Council presentations for the IFP. The first presentation will be a public meeting to present the IFP and receive comments. The second presentation will adopt the IFP and associated Development Impact Fees for Tivoli.

Harris will assist the City in the preparation of all required City Council staff reports, resolutions and public notices associated with the adoption of the IFP.

Harris will provide ten (10) copies for City staff review. At the City's direction, Harris will complete a final draft to be presented to stakeholders.

Estimated Level of Effort and Costs for Task 4.2:

Firm	Hours	Costs	Meetings in Scope
Harris - PM	457	$ 63,250	4 w/staff; 2 w/Council
West Yost - Water	200	$ 29,500	1 w/staff
Carollo - Wastewater	128	$ 23,950	2 w/staff
Omni-Means - Traffic	208	$ 33,896	2 w/staff
Stantec - Drainage	376	$ 44,199	2
Mark-ups on Subs		$ 13,155	
Totals	**1,369**	**$ 207,950**	

Deliverables for Task 4.2

10 copies of the draft Infrastructure Finance Plan
10 copies of a final draft of the Infrastructure Finance Plan
20 copies of the final Infrastructure Finance Plan
1 electronic copy of the final Infrastructure Finance Plan.

Task 4.3 – Facilities Master Plan

Harris will prepare the Facilities Master Plan, which includes the following:

- Introduction
- Sanitary Sewer System
- Storm Drainage System
- Construction Phasing
- Opinion of Probable Cost (shown in IFP)
- Circulation System
- Potable Water System
- Parks (provided by City)

Harris will prepare the "Tivoli Facilities Master Plan". It will incorporate all of the information provided by the Sub-consultants related to infrastructure requirements. This task assumes that no aerial or field surveying is required but will be available from the other work being completed by the developer. If survey information is not available, then an additional task to provide this service will be needed.

The document will also include:

- Mitigation Measures from the EIR for Tivoli Specific Plan.
- Implementation and Funding
- Amendment Process.

This scope of work assumes that thirty (30) sheets of drawings will be created during this process.

Harris assumes that the adoption of the FMP will occur as part of the IFP process discussed in Task 4.2.

Ten (10) copies of the 30% design level drawings will be submitted to the City for review. The 30% submittal would include all drawings anticipated to be submitted and would include alignments and planned locations of all facilities. Once the City has submitted written comments to Harris, 90% drawings will be completed. Ten (10) copies of the 90% drawings will be submitted to the City for final review. The 90% submittal would include all alignments for roads and pipes including face of curb, edge of pavement, existing right-of-way, future right-of-way, and existing buildings, profiles for all roads and pipes including slopes, and elevation call-outs, cross section of roads including lane widths, landscaping widths and side walk widths, intersection details including lengths of turn lanes, lane configurations, face of curb, edge of pavement, existing right of way, future right of way, and any existing buildings and location of any planned detention basins, parks, schools, and any other pertinent facilities. The 90% would also include all notes, all call-outs, any details that are to be incorporated such as curb and gutter, sidewalk, etc. or reference to the City's design standards.

Twenty (20) copies of the final drawings, including an electronic copy, will be provided to the City when all comments have been addressed.

Task 4.3 assumes 4 meetings with the City and/or developers to discuss the drawings.

Estimated Level of Effort and Costs for Task 4.3:

Firm	Hours	Costs	Meetings in Scope
Harris - PM	1,356	$ 157,060	4 w/staff
West Yost - Water	80	$ 17,500	
Carollo - Wastewater	24	$ 5,150	2 w/staff
Omni-Means - Traffic	36	$ 5,904	2 Public
Stantec - Drainage	164	$ 21,742	2
Mark-ups on Subs		$ 5,030	
Totals	**1,660**	**$ 212,386**	

Deliverables for Task 4.3

10 copies of the 30% level drawings of the Facilities Master Plan
10 copies of a 90% level drawings of the Facilities Master Plan
20 copies of the final Facilities Master Plan
1 electronic copy of the final Facilities Master Plan

Task 4.4 – Community Facilities District

Harris will manage the formation of the Community Facilities District.

A. Goodwin Consulting Group, Inc. (GCG) will serve as special tax consultant to assist the City of Modesto (City) in the formation of a Mello-Roos Community Facilities District (CFD) that will fund public improvements and public services required to serve the Tivoli project. GCG will meet with City staff, property owners, the City's financial advisor, bond counsel and other members of the financing team to compile data, and to discuss the structure and components of the Mello-Roos cash flow analysis.

This task will include:

(i) Determining the initial boundaries of the CFD and future annexation areas both inside and outside existing City limits

(ii) Identifying proposed land uses, public facilities to be financed, annual storm drain and landscape maintenance costs, anticipated absorption rates, and timing and number of bond issues

(iii) Discussing assumptions to be used for the initial allocation of special taxes to land uses within the CFD and reviewing the advantages and disadvantages associated with various allocation methods

(iv) Evaluating the potential for separate CFDs, improvement areas or tax zones based on the objectives of the City and developers, and

(v) Coordinating with the financial advisor regarding the anticipated bond structure, including special tax/debt service escalator, bond interest rate, short-term reinvestment rate, capitalized interest, reserve fund, and other features that may affect the size of bond issues and the corresponding annual debt service.

B. Mello-Roos Cash Flow Analysis: GCG will use the information compiled to prepare an analysis of the annual cash flow of the CFD. The analysis will identify the maximum special tax that will be needed to maintain required debt service coverage on bonded indebtedness issued on behalf of the CFD.

In addition, the cash flow analysis will

(i) Estimate the special tax burden on undeveloped property based on a given absorption scenario

(ii) Determine the size of the initial and subsequent bond sales taking into consideration minimum value-to-lien requirements set forth in state law and City policy, and

(iii) Evaluate the increased bonding capacity that is created from an escalating special tax and debt service or other unique bond structure.

GCG will present the cash flow analysis at a second meeting and discuss alternatives that the working group would like analyzed. Subsequent iterations of the analysis will be prepared based on feedback from City staff, affected property owners, the financial advisor, bond counsel and other members of the working group. Ultimately, through review and discussion of each alternative, the team will select a special tax structure, which GCG will incorporate in the Rate and Method of Apportionment of Special Tax outlined below.

C. Rate and Method of Apportionment of Special Tax: Based on the special tax structure selected pursuant to Task B-2 above, GCG will prepare the Rate and Method of

Apportionment of Special Tax (RMA), which will serve as the official special tax formula for the CFD. The RMA will provide detail and direction as to how the special tax should be levied in future years to ensure adequate revenues are available for timely repayment of debt service on bonded indebtedness issued by the CFD. The RMA will be included as an exhibit to the Resolution of Intention to Form the CFD, which will be adopted by the City Council as part of the first set of actions taken towards forming the CFD.

In addition to providing guidance relative to the annual levy of special taxes in the CFD, the RMA will provide some or all of the following items:

- Identification of the maximum special tax for each special tax category, including each category of developed and undeveloped property
- Provision for a back-up special tax or alternate mechanism to be used to maintain maximum special tax revenues in the event that land uses change in future years
- A detailed prepayment formula that will provide flexibility for a property owner to prepay all or a portion of the special tax obligation after some or all bonds have been issued for the CFD
- If additional property is expected to annex into the CFD, a description of the "catch-up tax" that will apply to annexing parcels to equalize the cumulative special tax burdens (if applicable)

D. *Contributions and Review of Other CFD Formation Documents:* In coordination with Harris, the City, and Stakeholders, GCG will review, prepare and contribute to other documents required in the CFD formation proceedings. Specifically, GCG will prepare the CFD Report required, pursuant to Section 53321.5 of the Government Code, to be filed with the City Clerk prior to the public hearing. GCG will also review all CFD formation documents and, based on results of the cash flow analysis, assist in calculating the maximum bond authorization and appropriations limit for the CFD. GCG will also ensure that the CFD boundary map is consistent with the areas expected to be included in the CFD when the maximum special tax and/or bonding capacity is calculated.

E. In preparation for the issuance of bonds, GCG will review the bond purchase agreement, fiscal agent agreement and/or bond indenture to assure that the flow of special tax revenues and interest earnings as set forth in these documents are consistent with assumptions used in the Mello-Roos cash flow analysis.

In addition, GCG will review the preliminary official statement and, at the request of the financial advisor or underwriter, prepare one or more of the following:

- A table demonstrating special tax coverage based on the projected stream of revenues compared to annual debt service on the bonds
- If multiple landowners/developers are included within the CFD, a table showing diversification of special tax burdens among the major participants
- Incorporating information provided in the appraisal, a table identifying the value-to-lien ratios for each assessor parcel or major property owner

- A table summarizing a sample tax bill for individual residential units within each tax category to demonstrate compliance with City policy pertaining to the total effective tax rate
- Any other tables requested by the financial advisor and/or underwriter to assist in disclosure related to the special tax formula

F. *Certification of Special Tax Revenues and Acceptance of Associated Liability:* GCG will execute the Certificate of Special Tax Consultant, which commits to bond buyers that the minimum debt service coverage will be maintained by application of GCG's tax formula regardless of land use changes that occur within the CFD in future years.

Task 4.4 assumes 4 meetings with the City and/or developers.

Estimated Level of Effort and Costs for Task 4.4:

Firm	Hours	Costs	Meetings in Scope
Harris - PM	212	$ 24,780	4 w/staff
Goodwin Consult Grp		$ 45,000	4 w/staff
Mark-ups on Subs		$ 4,500	
Totals	**212**	**$ 74,280**	

Deliverables for Task 4.4

See items A through E above.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-045

A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 OPERATING BUDGET TO CREATE A MULTI-YEAR ACCOUNT (2900-020-0265) AND APPROPRIATING $300,000, FUNDED BY RUSSELL A. NEWMAN, PROFESSIONAL LAW CORPORATION, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE TIVOLI SPECIFIC PLAN AREA

WHEREAS, the Tivoli Specific Plan Area is in need of a Facilities Master Plan ("FMP"), and Infrastructure Finance Plan ("IFP") to plan for necessary facilities and associated costs for buildout of that specific plan area, and

WHEREAS, on September 26, 2006, by Resolution No. 2006-599, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services ("Agreement") with Harris and Associates, a California corporation, for the preparation of FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, on January 9, 2007, by Resolution No.2007-044, the Council of the City of Modesto approved Task Order No. 4 to the Agreement for the preparation of a FMP, IFP, and for formation of a Community Facilities District ("CFD"), and

WHEREAS, on January 9, 2007, by Resolution No.2007-046, an Advanced Funding Agreement between the City and Russell A. Newman, Professional Law Corporation ("Applicant") was approved by the City Council, and

WHEREAS, Applicant has deposited with the City the amount of three hundred thousand dollars ($300,000.00) to fund a portion of the costs for the Project and provide for reimbursement as appropriate, and

WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund Task Order No. 4, and

WHEREAS, the City will issue Notices to Proceed to the City's Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006-2007 operating budget to create a multi-year account for the preparation of the Tivoli Specific Plan Area Facilities Master Plan and Infrastructure Finance Plan and appropriates $210,000 to 2900-020-0265-0235 for professional services and $90,000 to 2900-020-0265-0255 for City services.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-046

A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR THE TIVOLI SPECIFIC PLAN AREA BETWEEN THE CITY OF MODESTO AND RUSSELL A. NEWMAN, PROFESSIONAL LAW CORPORATION, FOR THE PREPARATION OF A FACILTIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE TIVOLI SPECIFIC PLAN AREA AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Russell A. Newman, Professional Law Corporation ("Applicant"), has agreed to advance all funds necessary to prepare a Facilities Master Plan ("FMP") and Infrastructure Finance Plan ("IFP"), and for formation of a Community Facilities District ("CFD") for the Tivoli Specific Plan Area, and

WHEREAS, the parties agreed to enter into an Advanced Funding Agreement for the Tivoli Specific Plan Area by and between the City and the Applicant relating to advances made and to be made by the Applicant to the City, and providing for potential reimbursement to the Applicant if and when certain funds from the Tivoli CFD become available, a copy of which is attached as **Exhibit A**,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Advanced Funding Agreement for the Tivoli Specific Plan Area between the City of Modesto and Russell A. Newman, Professional Law Corporation, is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ADVANCED FUNDING AGREEMENT
FOR THE TIVOLI SPECIFIC PLAN AREA

THIS ADVANCED FUNDING AGREEMENT FOR THE TIVOLI SPECIFIC PLAN AREA (this "Agreement"), dated as of _____, 2007, is entered into by and between the CITY OF MODESTO, a municipal corporation of the State of California (the "City") and RUSSELL A. NEWMAN, PROFESSIONAL LAW CORPORATION (the "Applicant").

RECITALS:

A. Applicant has a legal interest in real property located within a portion of the Tivoli Specific Plan Area ("Specific Plan"), shown in Exhibit A attached hereto and incorporated herein by this reference, and is interested in pursuing development of properties in the Specific Plan.

B. Applicant has requested that the City prepare a Facilities Master Plan and Infrastructure Finance Plan ("FMP/IFP"), and create an appropriate financing mechanism, such as a community facilities district ("CFD") for the principal purpose of master planning and financing the various public facilities and services which are necessary to serve or desirable for the development of the Specific Plan (collectively the "Project").

C. City has either retained, or will retain outside consultants, to assist it with the Project and, if the City determines to proceed with the formation of a CFD, to assist it in connection therewith and with the possible issuance of bonds.

D. The scope of work for the Project ("Scope"), including the estimated costs for completing the Project ("Estimated Costs"), is attached as Exhibit B.

E. Applicant is prepared to deposit with the City the amount needed to fund Task 1 as set forth in the Scope plus 30% for staff time and expenses in order to provide the City with an initial source of funds with which to pay expenses expected to be incurred in connection with the Project. Additional deposits will be provided by Applicant, as required by the City.

F. The City and Applicant are desirous of entering into this Agreement in order to provide monies for the City's costs for preparing the Project on a time and materials basis, to provide mechanisms by which the funds deposited under this Agreement shall be applied and by which Applicant may make additional deposits, and to reimburse Applicant for monies advanced for the benefit of other landowners in the Project.

G. Pursuant to California Government Code Section 53314.9 and the City's CFD Policies and Procedures, the City Council of the City is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred in connection with the planning and formation of a community facilities district. The City Council of the City is also authorized to enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind to repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value of the work-in-kind provided that certain conditions are met. The conditions to be satisfied with respect to funds advanced require that (1) the proposal to repay the funds or to pay the cost or value of the work-in-kind must be included in the resolution of intention for the proposed community

facilities district and in the resolution of formation for the proposed community facilities district, (2) any proposed special tax is approved by the qualified electors of the community facilities district and, if a proposed special tax is not approved, any funds advanced which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

H. The City and the Applicant are desirous of entering into this Agreement in accordance with Government Code Section 53314.9 and the City's CFD Policies and Procedures in order to provide a mechanism by which the Applicant may make additional deposits if determined necessary pursuant to the City's CFD Policies and Procedures and, when and if bonds are issued and proceeds are available, the CFD can reimburse the Applicant for the amounts advanced by the Applicant.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.

2. Proposed Preparation of the Facilities Master Plan and Infrastructure Financing Plan.

   a. Applicant agrees to pay all costs of preparing, processing and approving the FMP/IFP.

   b. Within ten (10) calendar days after the City Council approves this Agreement, Applicant shall deposit with the City the sum of $300,000.00 ("Initial Deposit") to fund Task 1 as identified in the Scope ("Task 1"). The Initial Deposit includes 30% for staff time and expenses associated with said Task. The Initial Deposit will be held in trust by the City and used solely for the purposes set forth in this Agreement. Upon receipt by the City of the Initial Deposit and all documents deemed necessary by the City to proceed with the Project, the City will commence work on Task 1 on a time and materials basis and will provide a Notice to Proceed to its Consultant to proceed with Task 1. In connection therewith, the City has either retained, or will retain, the consultants that the City determines necessary or convenient to assist it with the Project and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

      After the Initial Deposit has been expended on the Project, Applicant shall make additional advances to the City as provided by subparagraph (d), below, until the Project has been completed or terminated, and all costs associated with the Project have been fully paid. City will commence work on subsequent Tasks as identified in the Scope on a time and materials basis and will provide a Notice to Proceed to Consultant for each such Task within ten (10) calendar days after it has received an additional deposit sufficient to cover the estimated costs for said Task plus 30% for staff time and expenses associated with said Task.

c. The consultants shall submit invoices to the City for payments based on work completed; such invoices will be promptly sent by the City to the Applicant, which will have five (5) business days to challenge the work performed, and the City will in good faith consider the position of the Applicant prior to approving payment. Applicant understands and agrees that City shall have the right, in its sole discretion, to approve and pay all such consultant invoices, and may do so without obtaining Applicant's approval.

Applicant shall make additional advances to the City within ten (10) business days following receipt from the City of a request for an additional advance to the cover the costs referred to herein. In the event that Applicant does not deliver the requested amount to the City within such ten (10) business day period, the City will have no obligation to proceed with any activity relating to the Project. The Applicant may notify the City at any time, in writing, of its intention to abandon the Project. Immediately upon City's receipt of such notice, but in no case later than two (2) business days, the City shall instruct in writing its consultants to cease work immediately. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisors relating to the Project until City issues this cease work notice.

d. Within 60 calendar days after issuance of a cease work notice, City agrees to return to Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by City relating to the Project.

e. Applicant agrees that, notwithstanding the Applicant's funding and reimbursement obligation under this Agreement, the consultants selected by the City shall be the contractors exclusively of the City and not of the Applicant. Except for those disclosures required by law including, without limitation the Public Records Act, all conversations, notes, memoranda, correspondence, and other forms of communication by and between the City and its consultants shall be, to the extent permissible by law, privileged and confidential and not subject to disclosure to the Applicant. Applicant agrees that it shall have no claim to, nor shall it assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work project produced by City's consultants. Applicant understands that it will not be a third party beneficiary to City's contracts with the consultant. City will consult with Applicant prior to replacing its current consultants; however, Applicant agrees that City may select other consultants to replace its current consultants and may do so without obtaining Applicant's approval.

f. City and Applicant shall work cooperatively and in good faith to facilitate completion of Project as quickly as possible and in the most cost effective way. City and Applicant shall meet and consult on dates and times as may be mutually agreed upon to discuss the progress and any key issues involved in the Project; provided, however, that Applicant's role is advisory only and that City shall control all aspects of the Project. The final work product to be produced by City's consultants shall be subject to the City' sole approval and control.

3. Proposed Formation of the CFD and Issuance of Bonds.

a. Applicant agrees to pay all costs of preparing, processing and forming a CFD for the Specific Plan area.

b. Upon receipt by the City of a completed application for the formation of the CFD, the formation deposit for the CFD, and all documents related thereto as described in the City's CFD Policies and Procedures, the City will undertake to analyze the appropriateness of forming the CFD and the issuance of bonds by it. In connection therewith, the City has either retained or will retain, at the Applicant's expense, the consultants that the City determines necessary or convenient to assist it in studying the proposed formation of the CFD and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

c. Pursuant to the City's CFD Policies and Procedures, the Applicant shall make additional advances to the City within ten (10) days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event the Applicant does not deliver the requested amount to the City within such ten (10) day period, the City will have no obligation to proceed with any activity relating to the formation of the CFD and/or the issuance of bonds. The Applicant may notify the City at any time, in writing, of its intention to abandon the formation of the CFD or the issuance of bonds. Upon receipt of such notice, the City shall instruct its consultants to cease work as soon as practicable. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor relating to the proposed formation of the CFD and/or bond issuance until work with respect to the proposed formation or bond issuance ceases following the receipt of the Applicant's notice of abandonment. Within 60 calendar days after receipt of the Applicant's notice of abandonment, City agrees to return to Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by City relating to the Project.

4. Reimbursement Procedure. If the CFD is formed and bonds are issued, bond proceeds in excess of the amount determined by the City's District Administrator to be required in order to satisfy the requirements of the City's CFD Policies and Procedures with respect to capitalized interest and reserves and to pay for the Facilities and other Incidental Expenses may be used to reimburse the Applicant for the amounts that the Applicant has advanced to the City in connection with this Agreement, all as provided for in the City's CFD Policies and Procedures. In the event that the CFD is not formed for any reason, or in the event that the CFD is formed and bonds are not issued for any reason, the City shall return any funds which have been advanced by the Applicant pursuant to this Agreement and which have not been expended, obligated or otherwise committed for any authorized purpose, subject to the complete reimbursement to the City of all of its direct and indirect costs. If the amounts previously advanced by the Applicant are insufficient to fully reimburse the City for all of its direct and indirect costs, the Applicant shall promptly pay to the City the amount of the deficiency. The City shall be entitled to pay any refund required pursuant to the provisions hereof to the entity that is the signatory to this Agreement irrespective of any changes in the ownership of the property or the organization of the Applicant, and the City shall not be required to pay interest on any amount required to be refunded pursuant to this Agreement.

5. Abandonment of the Project. The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to review, process, prepare or approved the proposed Project, shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to review, process, prepare or approve the proposed Project. The City shall have no liability to Applicant for a decision not to review, process, prepare or approve the proposed Project.

6. Abandonment of Proposed CFD. The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to form the CFD and the decision to issue bonds shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to form the CFD or to issue bonds. Should the proceedings to form the CFD be abandoned for any reason, the City shall provide written notification of such abandonment to the Applicant and shall return to the Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by the City relating to formation of the CFD. Said monies shall be returned within 60 days of the issuance of the written notice of abandonment. Except for such reimbursement, the City shall have no liability to Applicant for a decision not to form the CFD or issue bonds.

7. Indemnification and Hold Harmless. The Applicant hereby assumes the defense of, and indemnifies and saves harmless, the City and each of its officers, directors and employees, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of or arising out of any acts or omissions of the Applicant or any of the Applicant's officers, employees, contractors and agents in connection with the proposed formation of the CFD or any work-in-kind provided by or on behalf of the Applicant or its consultants, except for any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

8. Notices. Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

Applicant: RUSSELL A. NEWMAN, Professional Law Corporation
1020 Tenth Street
Modesto, CA 95354
Attention: Dave Romano

and

Cal-Pacific
c/o Reininga Corporation
456 Montgomery Street, Suite 1000
San Francisco, CA 94104

City: City of Modesto
1010 Tenth Street, Suite 6100
Modesto, California 95354
Attention: IFP Administrative Officer

Phone: 209-577-5211
Facsimile: 209-571-5128

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

9. Assignment. The Applicant may not assign its interest in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld. Any assignment or attempt to assign this Agreement without the prior written consent of City shall be deemed null and void as of the date of the purported assignment. All covenants, stipulations, and agreements in this Agreement shall bind any such representatives, successors and assigns.

10. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

11. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

12. Amendments. This Agreement may be amended or modified only by written instrument signed by all parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

13. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof; and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City (and its officers, directors, employees and agents providing services under this Agreement) and the Applicant, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

15. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

16. Termination. This Agreement shall terminate and be of no further force and effect on the third anniversary of the date of this Agreement unless expressly amended by the parties; provided, however, that the Applicant's obligations under Section 7 shall survive the termination and the City's obligation to provide reimbursement in accordance with Section 4 for expenses incurred prior to the termination date shall also survive termination.

17. Time is of the Essence. Except as otherwise expressly stated, time is of the essence in the performance of each and every action required pursuant to this Agreement.

18. Language Construction. The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

19. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

20. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and Applicant or its agents, employees or contractors. Except as City may specify in writing, Applicant shall have no authority to act as an agent of City or to bind City to any obligation.

21. Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of this Agreement's provisions.

22. Waiver. The waiver by any party to this Agreement of any action, obligation, or commitment required by this Agreement or of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof or of any action, obligation, or commitment required by this Agreement unless specifically stated in writing.

23. Discretion of the City. City's execution of this Agreement in no way limits the discretion of City in the permit and approval process in connection with any entitlements within City's jurisdiction, including those related to the Project, or with the design, construction or funding of any onsite or offsite infrastructure improvements within the City's jurisdiction.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2007-____, adopted by the Council of the City of Modesto on the _____day of _____, 2007, and Russell A. Newman, PLC, has caused this Agreement to be executed in duplicate, effective as of the date first written above.

CITY OF MODESTO, a municipal corporation

By: _____
GEORGE W. BRITTON, City Manager

ATTEST:

By: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
SUSANA ALACALA WOOD, City Attorney

By: _____
ALISON A. BARRATT-GREEN
Senior Deputy City Attorney

RUSSELL A. NEWMAN, Professional Law Corporation

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Signature Requirements
Corporation:
1. Signature of two (2) officers
or
2. Signature of one (1) officer plus the corporate seal

Partnership: Signature of one partner
Sole Proprietorship: Signature of proprietor

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-047

A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND GEORGE OSNER, AICP, FOR ON-CALL PLANNING AND ENVIRONMENTAL SUPPORT SERVICES FOR THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT AND PUBLIC WORKS DEPARTMENT, FOR AN ADDITIONAL AMOUNT OF $50,000, FOR A TOTAL AMOUNT NOT TO EXCEED $189,999 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on November 14, 2005, the City of Modesto entered into a Standard Agreement for consultant services with George Osner, AICP, Planning Consultant, to provide planning services for the Community & Economic Development Department, in an amount not to exceed $49,000, and

WHEREAS, on July 11, 2006, by Resolution No. 2006-429, the contract was amended for an additional $90,000, for a total amount not to exceed $139,999, and

WHEREAS, the contract amendment extended planning services for the Community & Economic Development Department, Planning Division for an additional amount of $50,000, and,

WHEREAS, the remaining $40,000 was budgeted for services to the Public Works Department, Capital Improvement Services Division, through the Community & Economic Development Department, and,

WHEREAS, the Planning Division performs a number of tasks requiring planning support services, and,

WHEREAS, due to workload levels, and shortfalls in staffing levels, on-call planning support services are necessary to augment planning services provided by the Planning Division, and,

WHEREAS, Mr. Osner is currently providing planning services to the Community & Economic Development Department, including interpreting and applying environmental quality laws, and regulations to ensure City projects are in compliance with State and Federal laws, assisting in preparing request for proposals, preparing amendments to the Zoning Code for review and consideration, preparing ordinances for review and consideration, developing recommendations and preparing planning reports on various development proposals and applications and special studies, preparing appropriate planning, statistical, financial and narrative reports with technical studies, preparing planning applications, brochures and handout material associated with the development review process, and,

WHEREAS, in accordance with the amended agreement, George Osner has been providing on-call and environmental planning support services, and the amended amount of $50,000 has almost been reached, and,

WHEREAS, in order to satisfy on-going needs, the Community and Economic Development Department is proposing an Amendment No. 2 to the Standard Agreement for Consultant Services with George Osner for an additional amount of $50,000, for a total amount not to exceed $189,999, and,

WHEREAS, George Osner, AICP, is familiar with the City's standards, policies, municipal code and operating procedures, having provided prior services in conjunction with the City's overall urban and environmental planning efforts, and has demonstrated satisfactory services to the City on past and current projects, and

WHEREAS, staff has selected Mr. Osner, AICP, to provide on-call planning and environmental support services because of his extensive experience in the planning field and on similar projects, and

WHEREAS, Mr. Osner, AICP, will be paid on an hourly basis for actual hours required to perform specific tasks orders at a set rate, and

WHEREAS, funding for the services to the Community and Economic Development Department is allocated in the FY 06/07 CEDD budget in the amount of $50,000, located in the 0235 Professional Services Object of organization 1430, in combination with salary savings as a result of vacant positions for a Planning Division Manager, an Office Supervisor, a Senior Planner and an Administrative Services Technician II,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 2 to the Standard Agreement for Consultant Services between the City of Modesto and George Osner, AICP, Planning Consultant, for on-call planning and environmental support services for the Community & Economic Development Department and public Works Department, for an additional amount of $50,000, for a total amount not to exceed $189,999.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-048

A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND JERRY HAAG, FOR PLANNING SUPPORT SERVICES FOR THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT, FOR AN ADDITIONAL AMOUNT OF $50,000, FOR A TOTAL AMOUNT NOT TO EXCEED $99,999 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on November 14, 2005, the City of Modesto entered into a Standard Agreement for consultant services with Jerry Haag, Planning Consultant, to provide planning services for the Community & Economic Development Department, in an amount not to exceed $49,000, and

WHEREAS, on November 14, 2006, the contract was amended to extend the term of agreement to continue in effect until CITY'S acceptance of and payment for all services authorized by CITY and performed by CONSULTANT, and

WHEREAS, the Planning Division performs a number of tasks requiring planning support services, and,

WHEREAS, due to workload levels, and shortfalls in staffing levels, planning support services are necessary to augment planning services provided by the Planning Division, and,

WHEREAS, contract planning assistance is necessary to assist the City to efficiently manage the specific plan project load in a manner that is responsive to the City's customers, and,

WHEREAS, there are currently 7 specific plan proposals underway in the City, and,

WHEREAS, Mr. Haag is currently providing planning services on a time and materials basis, to manage 2 specific plans currently underway: Woodglen and Pelandale-McHenry, and,

WHEREAS, Mr. Haag has also assisted the City in reviewing and providing comments on preliminary concept plans for the Johansen-Empire North Specific Plan and the Kiernan Business park East Specific Plan Amendment, and,

WHEREAS, in accordance with the Standard Agreement, Jerry Haag has been providing planning support services, and the contract amount of $49,999 has almost been reached, and,

WHEREAS, in order to satisfy on-going needs, the Community and Economic Development Department is proposing an Amendment No. 2 to the Standard Agreement for Consultant Services with Jerry Haag for an additional amount of $50,000, for a total amount not to exceed $99,999, and,

WHEREAS, Jerry Haag, is familiar with the City's standards, policies, and operating procedures, having provided prior services in conjunction with the City's overall urban and environmental planning efforts, and has demonstrated satisfactory services to the City on past and current projects, and,

WHEREAS, Mr. Haag is also qualified to provide the requested planning support services in a timely and cost effective manner, and,

WHEREAS, Mr. Haag has intimate knowledge of coordinating with City staff in furtherance of planning services and conferring with and advising City staff regarding environmental laws, regulations, and policies, and,

WHEREAS, funding for the services to the Community and Economic Development Department is allocated in the FY 06/07 CEDD budget in the amount of

$50,000, located in the 0235 Professional Services Object of organization 1430, in combination with salary savings as a result of vacant positions for a Planning Division Manager, an Office Supervisor, a Senior Planner and an Administrative Services Technician II,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 2 to the Standard Agreement for Consultant Services between the City of Modesto and Jerry Haag, Planning Consultant, for planning support services for the Community & Economic Development Department, Planning Division for an additional amount of $50,000, for a total amount not to exceed $99,999.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-049

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF FEDERAL BRAND AMMUNITION FOR THE POLICE DEPARTMENT, TO SAN DIEGO POLICE EQUIPMENT CO., INC., SAN DIEGO, CA, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $75,902

WHEREAS, the Police Department maintains an inventory of Federal Brand Ammunition for issuance to sworn staff and for training purposes, and

WHEREAS, a one-time purchase is made each fiscal year to replenish the supply for the department, and

WHEREAS, the FBI established a standardized bullet testing protocol, and

WHEREAS, about six (6) years ago the Modesto Police Department tested several bullet brands using the FBI protocol, and

WHEREAS, at the time the department was using Remington Brand, and

WHEREAS, the best performing bullet was the Speer Gold Dot; however, this brand is very expensive, and

WHEREAS, the next best performing brand was Federal, and

WHEREAS, Federal is competitively priced when compared to Remington and Winchester brands, and

WHEREAS, for this reason, the department purchases Federal Brand, and

WHEREAS, on October 10, 2006, Council approved Resolution No. 2006-647 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of Federal Brand Ammunition for the Police Department, for a two (2) year

agreement, with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on November 3, 2006, the Purchasing Division issued Request for Bid No. 0607-17 for the purchase of Federal Brand Ammunition to seven (7) Federal Brand distributors, three (3) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on December 5, 2006, RFB's were formally opened in the City Clerk's office, and

WHEREAS, of the seven (7) prospective bidders, one (1) company chose to respond, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of Federal Brand Ammunition for the Police Department, to San Diego Police Equipment Co., Inc., San Diego CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $75,902, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of Federal Brand Ammunition for the Police Department, conforms to code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of Federal Brand Ammunition for the Police Department, to San Diego Equipment Co., Inc., San Diego,

CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $75,902.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the purchase of Federal Brand Ammunition for the Police Department, to San Diego Equipment Co., Inc., San Diego, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $75,902.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-050

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF FOUR (4) UTILITY TYPE TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO BROADWAY MOTORS FORD, OAKLAND, CA FOR A TOTAL ESTIMATED COST OF $185,587.

WHEREAS, on August 3, 2005, Council approved Resolution No. 2005-381 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 05/06 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, on April 26, 2006, The Purchasing Division issued formal bids for six (6) new current year/model utility trucks on RFB 0506-29, with a bid opening date of May 16, 2006, and

WHEREAS, twenty-eight (28) vendors were solicited of which five (5) were local vendors. One (1) bidder chose to respond to the RFB, and

WHEREAS, the bid received was for one (1), crew cab & chassis F550 truck with utility body, with the bid amount exceeding the budgeted amount of $70,000, and

WHEREAS, on July 5, 2006, Council approved Resolution No. 2006-418 authorizing the Purchasing Manager to reject the sole bid and re-issue formal RFB's for the purchase of six new, current year/model utility truck for an estimated total cost of $332,000, and

WHEREAS, on September 12, 2006, Council approved Resolution No. 2006-573 authorizing the purchase of two (2) new, current year/model stencil paint trucks by

"accessing the terms" of a competitively bid contract through Line Master Engineering Inc., for a total estimated cost of $173,583, and

WHEREAS, on September 19, 2006, the Purchasing Division issued RFB No. 0607-21 for the purchase of four (4) Utility Type trucks to thirty (30) prospective bidders, twelve (12) of which were local companies, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on October 24, 2006, RFB's were formally opened in the City Clerk's office, and

WHEREAS, of the thirty (30) prospective bidders, four (4) companies chose to respond, and

WHEREAS, based on being deemed the lowest responsive and responsible bidder, City staff recommends the award of bid and contract for the purchase of four (4) utility type trucks for the Public Works Department, Fleet Services Division, to Broadway Motors Ford, Oakland, CA, for the total estimated cost of $185,587, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of four (4) utility type trucks for the Public Works Department, Fleet Services Division, conforms to code requirements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of four (4) utility type trucks for the Public Works Department, Fleet Services Division, to Broadway Motors Ford, Oakland, CA, for the total estimated cost of $185,587.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for the purchase of four (4) utility type trucks for the Public Works Department, Fleet Services Division, to Broadway Motors Ford, Oakland, CA, for the total estimated cost of $185,587.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-051

A RESOLUTION DECLARING AS SURPLUS FROM FEBRUARY 1, 2007 THROUGH JANUARY 31, 2008 THE FOLLOWING ITEMS: STOLEN, UNCLAIMED AND/OR SEIZED PROPERTY FROM THE POLICE DEPARTMENT, EXCESS PROPERTY ACCUMULATED BY THE CITY, AND SURPLUS CITY VEHICLES AND AUTHORIZING THE PURCHASING DIVISION TO SELL SAME BY SEALED BID, CONSIGNMENT, PUBLIC AUCTION, ONLINE AUCTION, OR AS SCRAP. THE AUCTION HOUSE, LOCATED AT 824 W. KIERNAN AVENUE IN ACCORDANCE WITH AUCTIONEERING AGREEMENT DATED AUGUST 14, 2001 WILL CONDUCT THE PUBLIC AUCTION. PUBLICSURPLUS.COM OF PROVO, UTAH WILL CONDUCT ONLINE AUCTIONS FOR SELECTED SURPLUS PROPERTY AS NEEDED.

WHEREAS, Section 801 of the City Charter authorizes the City Manager to sell obsolete, unclaimed, or surplus personal property of the City with the approval of the City Council, and

WHEREAS, the City's surplus items consist of: (1), obsolete traffic signal equipment; (2), lost, stolen, unclaimed and/or seized property, and excess property accumulated by the City; unclaimed bicycles accumulated at the Police Department Evidence and Property Room; and (3), and surplus City vehicles, and

WHEREAS, the current auction agreement calls for auctioneering services to be provided by the Auction House (Resolution Number 2001-423); and

WHEREAS, public auctions are conducted at their facility located at 824 W. Kiernan Avenue in Modesto, and

WHEREAS, the Purchasing Division will sale selected surplus property online through PublicSurplus.com, and

WHEREAS, the items sold online would consist of surplus items that could possibly bring a higher price over use of a conventional auction, and

WHEREAS, from January 1, 2006 through December 14, 2006, the City had received $336,906.37 from the sale of surplus property, and

WHEREAS, revenues from the sale of surplus Fleet vehicles/equipment (less administrative fees) are deposited into the Fleet Replacement Fund, 7210, and

WHEREAS, all revenues received (less administrative fees) from the sale of non-rolling stock are deposited in the General Fund (per MCC 2-7.08), and

WHEREAS, by authorizing the Purchasing Division to process property, as items become surplus, from February 1, 2007 through January 31, 2008, without returning to City Council for subsequent approvals, the City will save substantial staff and processing time and be compliant with City Charter and Modesto Municipal Code (MMC), and

WHEREAS, the list of property to be sold will be on file with the City Clerk, and

WHEREAS, the City could sell all surplus as scrap or choose to donate it to charitable organizations, and

WHEREAS, after the auction, the Purchasing Division will prepare a recap memorandum to account for the items sold and the proceeds obtained from the auction,

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

SECTION 1. The City Council hereby authorizes the City Purchasing Division to seek City Council approval each year for the disposition of surplus property in accordance with Section 801 of the City Charter and Modesto Municipal Code (MMC), and hereby declares as surplus from February 1, 2007, through January 31, 2008, the property items set forth above.

SECTION 2. The City Manager, or his designated representative, is hereby authorized and directed to sell on consignment to the highest bidder any surplus properties as set forth on the list on file in the City Clerk's office.

SECTION 3. If said property cannot be sold on consignment as listed above, the City Manager, or his designated representative, is hereby authorized and directed to sell on a sealed bid basis to the highest bidder any surplus properties as set forth on the list on file in the City Clerk's office.

SECTION 4. If said property cannot be sold on consignment or on a sealed bid basis as provided, then said property may be sold online pursuant to Resolution No. 2006-192, adopted on April 4, 2006.

SECTION 5. If said property cannot be sold on consignment online or on a sealed bid basis as provided for above, then said property may be sold at public auction utilizing the current agreement with The Auction House which was entered into on August 14, 2001, and approved by Council Resolution No. 2001-423. Said resolution provides for auctioneering services to be provided by The Auction House, subject to the appropriate insurance being on file in the office of the City Clerk, and subject to at least five (5) days notice being given before the time fixed for the sale. The City Clerk shall cause notice thereof to be published in the Modesto Bee, the official newspaper of the City of Modesto. Said notice shall set forth the time and place of the sale and shall state that the list of items to be offered for sale can be inspected in the office of the City Clerk.

SECTION 6. If said property cannot be sold on consignment, on a sealed bid basis, online or through the public auction process, then said property may be sold for scrap.

SECTION 7. The City Central Stores Manager is hereby authorized to contact The Auction House to coordinate pick-up for surplus property after the Purchasing Division has approved the necessary surplus property forms.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-052

A RESOLUTION APPOINTING 2007 BOND ISSUE AND REFINANCING TEAM CONSISTING OF SIDLEY AUSTIN, LLC, BOND COUNSEL; STRADLING YOCCA CARLSON & RAUTH, DISCLOSURE COUNSEL; PUBLIC FINANCIAL MANAGEMENT INC., FINANCIAL ADVISOR; BANC OF AMERICA SECURITIES LLC, UNDERWRITER, AND CITY STAFF WITH RESPECT TO THE PROPOSED ISSUANCE OF CERTAIN LEASE REVENUE BONDS AND LEASE REVENUE REFINANCING BONDS FOR FUTURE CONSIDERATION OF COUNCIL, AND AUTHORIZING SAID BOND FINANCING TEAM TO PROCEED WITH ACTIONS NECESSARY FOR BOND DOCUMENT DEVELOPMENT

WHEREAS, pursuant to the City of Modesto Municipal Code Section 301 of Chapter 4 of Article VIII, the City of Modesto, California (the "City") is authorized to issue lease revenue bonds to provide funds to finance the costs for the design, construction and equipping of improvements to the John Thurman Stadium and for the purpose of refunding existing lease revenue bonds, and

WHEREAS, staff has identified the opportunity to refinance the existing 1997 and 1998 Lease Revenue bonds while generating debt service savings and borrowing $2.4 million in additional proceeds for use in constructing improvements at John Thurman Stadium, and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with such proposed issuance, and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such issuance, for future consideration by this City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby appoints Sidley Austin, LLC of San Francisco, as Bond Counsel ("Bond Counsel"); Stradling Yocca Carlson & Rauth, A Professional Corporation of Newport

Beach, California, as the Disclosure Counsel; Public Financial Management Inc., San Francisco, California, as Financial Advisor ("Financial Advisor"), and Banc of America Securities LLC as the Underwriter.

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, including directing the finance professionals appointed pursuant to this Resolution, to begin preparation of documents in connection with the proposed issuance of the City's lease revenue and lease revenue financing bonds, for future consideration by the City Council

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the Resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-053

A RESOLUTION APPROVING A BOND DISCLOSURE COUNSEL AGREEMENT WITH STRADLING YOCCA CARLSON & RAUTH FOR LEGAL SERVICES RELATED TO THE PROPOSED ISSUANCE OF CERTAIN LEASE REVENUE BONDS AND LEASE REVENUE REFINANCING BONDS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT.

WHEREAS, Finance Department staff and the City's Financial Advisor have identified opportunities to generate debt service savings by refinancing existing debt, and

WHEREAS, the City has entered into an agreement with the management of the Modesto Nuts which will require the City to issue $2.4 million in lease revenue bonds to construct improvements at John Thurman Stadium, and

WHEREAS, City staff desires the assistance of Stradling Yocca Carlson & Rauth in regard to the 2007 Lease Revenue and Lease Revenue Refinancing Bonds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves a Disclosure Counsel Agreement for legal services with Stradling Yocca Carlson & Rauth for the 2007 Lease Revenue and Lease Revenue Refinancing Bonds,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-054

A RESOLUTION APPROVING A BOND COUNSEL AGREEMENT WITH SIDLEY AUSTIN, LLC FOR LEGAL SERVICES RELATED TO THE PROPOSED ISSUANCE OF CERTAIN LEASE REVENUE BONDS AND LEASE REVENUE REFINANCING BONDS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT.

WHEREAS, Finance Department staff and the City's Financial Advisor have identified opportunities to generate debt service savings by refinancing existing debt, and

WHEREAS, the City has entered into an agreement with the management of the Modesto Nuts which will require the City to issue $2.4 million in lease revenue bonds to construct improvements at John Thurman Stadium, and

WHEREAS, City staff desires the assistance of Stradling Yocca Carlson & Rauth in regard to the 2007 Lease Revenue and Lease Revenue Refinancing Bonds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves a Disclosure Counsel Agreement for legal services with Sidley Austin, LLC for the 2007 Lease Revenue and Lease Revenue Refinancing Bonds,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th of January 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-055

ADOPT A RESOLUTION AUTHORIZING THE MODESTO FIRE DEPARTMENT TO PARTICIPATE IN THE CENTER FOR PUBLIC SAFETY EXCELLENCE INCORPORATED'S (CPSE) SELF ASSESSMENT PROCESS, AND APPLY FOR ACCREDITATION.

WHEREAS, the Modesto Fire Department wishes to apply for accreditation which would measure the Modesto Fire Department's administration and response system against internationally recognized standards, and

WHEREAS, the first step of the accreditation process is to participate in the CPSE self assessment process, and

WHEREAS, the Safety and Communities Committee approved this request on December 4, 2006, for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Modesto Fire Department to participate in the Center For Public Safety Excellence Incorporated's (CPSE) self assessment process, and apply for accreditation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-056

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH COLE MANAGEMENT & ENGINEERING, INC., FOR ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT AND FOR REIMBURSABLE EXPENSES TO PERFORM CONSTRUCTION MANAGEMENT SERVICES OF THE CELESTE/ROSE/SCENIC SANITARY SEWER IMPROVEMENTS PROJECT IN THE AMOUNT OF $56,800.00, CONTRACT TOTAL OF $262,584.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, on March 7, 2006, by Resolution 2006-133, the City Council awarded a construction contract in the amount of $3,707,105.00 to California Trenchless, Inc., to construct the Celeste/Rose/Scenic Sanitary Sewer Improvements Project, and

WHEREAS, the Celeste/Rose/Scenic Sanitary Sewer Improvements Project is a large specialized project that will require augmentation of the City's capacity to provide construction management and inspection, and

WHEREAS, on April 4, 2006, by Resolution 2006-213, Cole Management & Engineering, Inc. (CME), a construction management firm specializing in these types of inspections was selected and approved to assist with this project, and

WHEREAS, the City's contractor, California Trenchless, Inc., should have completed the project on December 5, 2006, and is behind schedule, and

WHEREAS, the contractor, at times, has experienced slower drilling rates than our design consultant expected, including experiencing minor equipment breakdowns and vandalism, and

WHEREAS, the majority of the delay is due to the relatively new method of construction and our contractor's experience with that method. Many adjustments to those methods were required during construction due to soil conditions other than what the contractor anticipated, and

WHEREAS, over the course of this project, Cole Management was required to expend $15,938 on overtime for inspection and project management. Due to the relatively new nature of the construction method more of their budget was consumed on submittal review and consultations with the City's design consultant, and

WHEREAS, due to the size and complexity of this project, City Staff recommends that Cole Management continue to provide construction management services, as current workload and experience levels do not provide for timely in-house solutions/responses; and, in addition, integration of an additional item beyond the scope of the existing contract, such as, project closeout and assistance for extra work claims, if needed, and

WHEREAS, the City's consultant agreement with CME is a time and materials contract. As part of this Amendment, CME will continue to provide full-time inspection for the Celeste/Rose/Scenic Sanitary Sewer Improvements Project, and

WHEREAS, the total cost of the Agreement with Cole Management, including this Amendment, is less than 7.1 % of the cost of the construction contract, and no additional Change Order costs have been identified, and none are anticipated at this time.

WHEREAS, there are sufficient funds available in CIP Account 6210-430-A049 "Celeste/Rose/Scenic Sewer Improvements" to continue work on the ongoing and additional tasks to complete the additional work as follows: 1) Task 2: Schedule Review; 2) Task 3: Submittal and Request For Information, 3) Task 4: Construction Management, 4) Task 5: Administrative Duties, and 5) Task 6: Claims Assistance/Closeout, and

WHEREAS, the Original Agreement was for $205,784 and the additional work associated with this Amendment is $56,800, which will increase the total Agreement to an amount not-to-exceed $262,584, and

WHEREAS, the current budgeted amount of $56,800 for the Amendment to the Agreement is available in the CIP Account 6210-430-A049 "Celeste/Rose/Scenic Sewer Improvements" to cover the cost for these additional services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement between City of Modesto and Cole Management & Engineering, Inc., for additional services related to the Celeste/Rose/Scenic Sanitary Sewer Improvements Project in the amount of $56,800.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-057

A RESOLUTION REJECTING THE SOLE BID FOR THE PROJECT TITLED, "MERLE AVENUE AND MAID MARIANE LANE ROUNDABOUT IMPROVEMENTS," AND AUTHORIZING STAFF TO REBID THE PROJECT

WHEREAS, the bids received for Merle Avenue and Maid Mariane Lane Roundabout Improvements were opened at 11:00 a.m. on November 14, 2006, and

WHEREAS, during the bid evaluation process, staff determined that the sole bid unreasonably exceeds the Engineer's estimate; therefore, staff recommends the bid be rejected and the specifications be revised and re-solicitation for this service be conducted at a later date, and

WHEREAS, there will be no impact to the operating budget if the low bid is rejected and the project re-advertised,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bids received for Merle Avenue and Maid Mariane Lane Roundabout Improvements, opened in the office of the City Clerk on November 14, 2006, are hereby rejected.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that City staff is hereby authorized to rebid the project titled "Merle Avenue and Maid Mariane Lane Roundabout Improvements."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-058

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS, AWARDING THE BID, AND APPROVING A $235,600.00 CONSTRUCTION CONTRACT WITH JOHN D. BAKER CONSTRUCTION COMPANY FOR THE PROJECT ENTITLED "INSTALLATION OF DETECTOR LOOPS AT 7 INTERSECTIONS," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, City staff has reviewed the plans and specifications for the project entitled, "Installation of Detector Loops at 7 Intersections" and recommends approval to the City Council, and

WHEREAS, the bids received for the "Installation of Detector Loops at 7 Intersections" project were opened at 11:00 a.m., on November 21, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $235,600.00 received from John D. Baker Construction Company be accepted as the lowest responsible bid, and the contract be awarded to John D. Baker Construction Company,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the "Installation of Detector Loops at 7 Intersections" project.

BE IT FURTHER RESOLVED that the Council accepts the bid of John D. Baker Construction Company in the amount of $235,600.00, and hereby awards John D. Baker Construction Company the contract for "Installation of Detector Loops at 7 Intersections."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-059

A RESOLUTION APPROVING THE PROJECT, INCLUDING PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "REPLACE MANHOLES: 9TH/J STREETS AND 9TH/G STREETS," ACCEPTING THE BID AND APPROVING A $188,800.00 CONTRACT WITH ROLFE CONSTRUCTION CO., LLC, FOR THE PROJECT TITLED, "REPLACE MANHOLES: 9TH/J STREETS AND 9TH/G STREETS," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled "Replace Manholes: 9th/J Streets and 9th/G Streets" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Replace Manholes: 9th/J Streets and 9th/G Streets" were opened at 11:00 a.m. on October 31,2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $188,800.00 received from Rolfe Construction Co., LLC., be accepted as the lowest responsible bid and the contract be awarded to Rolfe Construction Co., LLC.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the "Replace Manholes: 9th/J Streets and 9th/G Streets" project, including the plans and specifications.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of Rolfe Construction Co., LLC., in the amount of $188,800.00, and hereby awards Rolfe Construction Co., LLC., the contract titled "Replace Manholes: 9th/J Streets and 9th/G Streets."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-060

A RESOLUTION APPROVING THE PROJECT, INCLUDING PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "COLLECTION SYSTEM REHABILITATION 2006", ACCEPTING THE BID AND APPROVING A $620,019.70 CONTRACT WITH D.A. WOOD CONSTRUCTION, INC., FOR THE PROJECT TITLED, "COLLECTION SYSTEM REHABILITATION 2006", AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, plans and specifications have been prepared for the project titled "Collection System Rehabilitation 2006" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Collection System Rehabilitation 2006" were opened at 11:00 a.m. on December 12, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $620,019.70 received from D.A. Wood Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to D.A. Wood Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the "Collection System Rehabilitation 2006" project, including the plans and specifications.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of D.A. Wood Construction, Inc., in the amount of $620,019.70, and hereby awards D.A. Wood Construction, Inc., the contract titled "Collection System Rehabilitation 2006."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-061

A RESOLUTION REJECTING ALL BIDS FOR THE PROJECT TITLED "KING-KENNEDY MEMORIAL CENTER KITCHEN AND AUDITORIUM RENOVATION" AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE.

WHEREAS, the two bids received for "King-Kennedy Memorial Center Kitchen and Auditorium Renovation" were opened at 11:00 a.m. on December 12, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, an apparent low bid by Menghetti Construction Inc., was 17.06% above the architect's estimate, and

WHEREAS, the apparent low bid for the project exceeded the estimate by an excessive amount, and

WHEREAS, the plans included the renovation of the kitchen and auditorium at the King-Kennedy Memorial Center, and

WHEREAS, during the bid evaluation process staff determined that there were insufficient funds available for this project. Therefore, staff recommends all bids be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that all bids received for "King-Kennedy Memorial Center Kitchen and Auditorium Renovation," opened in the office of the City Clerk on December 12, 2006, are hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-062

A RESOLUTION VACATING AND ABANDONING AN ALLEYWAY LOCATED BETWEEN COFFEE ROAD AND SUNNYSIDE AVENUE BETWEEN LOCKE ROAD AND LUCERN AVENUE

WHEREAS, Sutter Gould Medical Foundation filed an application to vacate and abandon a 590- foot alleyway, located between Coffee Road and Sunnyside Avenue ("Proposed Abandonment"), and

WHEREAS, Streets and Highways Code Section 8320 et seq. prescribes the procedures to vacate and abandon public rights-of-way, and

WHEREAS, a title report was submitted by Sutter Gould Medical Foundation with the abandonment request which shows that fee title to the property underlying the proposed abandonment belongs to Sutter Gould Medical Foundation who are proponents of the abandonment, and

WHEREAS, the homes which the alleyway has served will be demolished to accommodate parking for the Sutter Gould Medical Facility renovation; and

WHEREAS, the proposed abandonment has been referred to affected City departments and local utility companies, and no objection to the Proposed Abandonment has been received, and

WHEREAS, Government Code Section 65402(a) requires that prior to abandoning a public right-of-way, the Planning Commission shall make a determination as to whether the abandonment is consistent with the General Plan, and

WHEREAS, a hearing by the Planning Commission was scheduled for November 20, 2006, but was continued to December 4, 2006, due to incomplete documentation relating to the alley abandonment, and

WHEREAS, a hearing was held by the Planning Commission on December 4, 2006, in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California, at which hearing both oral and documentary was received and considered regarding the proposed vacation and abandonment, and

WHEREAS, by Planning Commission Resolution No. 2006-74, the Planning Commission rendered a report finding that the Proposed Abandonment is in conformance with the Modesto Urban Area General Plan and recommended that the Council vacate and abandon the said right-of-way, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Monday, January 9, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which time all persons interested in or objecting to the Proposed Abandonment were afforded the opportunity to appear, and

WHEREAS, three notices were posted at the site of the proposed right-of-way abandonment for two successive weeks prior to the hearing, and notice was published in the Modesto Bee for two successive weeks prior to the hearing, per Streets & Highways Code sections 8323 and 8332, respectively, and,

WHEREAS, all things and acts necessary to be done as required by the State of California Streets and Highways Code, Section 8300 through 8363: Public Streets, Highways and Service Easements Vacation Law, in order to vacate and abandon the subject right-of-way have been done and accomplished, and

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

1. The alleyway is not necessary to serve present or future traffic needs in the area.

2. The alleyway abandonment provides for the improvements necessary for upgraded medical facilities to serve the community.

3. That the vacation and abandonment of the 590- foot long right-of-way is in conformance with the City of Modesto General Plan.

BE IT FURTHER RESOLVED that the Council hereby orders and declares the vacation and abandonment of a 590- foot long alleyway, located between Coffee Road and Sunnyside Avenue between Locke Road and Lucern Avenue.

Said right-of-way to be vacated and abandoned is more particularly described in **Exhibit "A"** attached hereto, and by this reference made a part hereof as though set forth in full herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANNA ALCALA WOOD, City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

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

PARCEL ONE:

The alley in Block 1032, **Downey Manor**, according to the Official Map thereof, filed in the office of the Recorder of Stanislaus County, on August 5, 1955 in Vol. 18 of Maps, Page 32, lying between the Easterly line of Lot 1, extended Southerly and the Westerly line of Lot 5, extended Southerly.

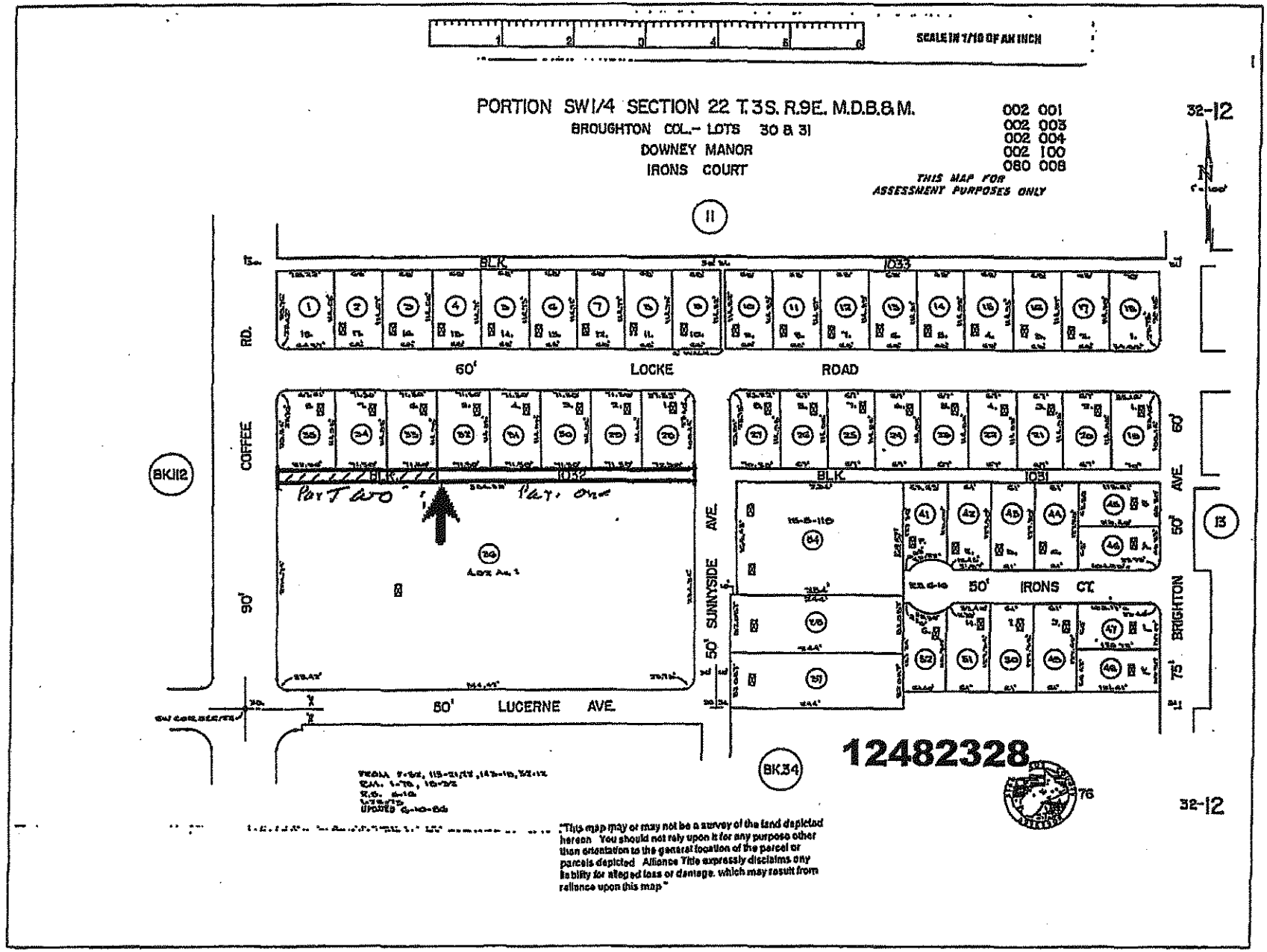
PARCEL TWO:

The alley in Block 1032, **Downey Manor**, according to the Official Map thereof, filed in the office of the Recorder of Stanislaus County, on August 5, 1955 in Vol. 18 of Maps, Page 32, lying between the Easterly line of Lot 6, extended Southerly and the Westerly line of Lot 8, extended Southerly.

End of Legal Description

APN No: adjacent to 32-12-28 thru 35

File No. 12482328-744- RGG



Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-063

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(30), AS AN ADDITION TO PLANNED DEVELOPMENT ZONE, P-D(30).

WHEREAS, the City Council by Ordinance No. 829–C.S., which became effective on June 21, 1967, granted Planned Development Zone, P-D(30), to allow expansion of an existing medical clinic, property located at the northeast corner of Coffee Road and Lucern Avenue, and

WHEREAS, City Council Resolution No. 67-352 adopted by the City Council on May 8, 1967, approved the development plan for Planned Development Zone, P-D(30), and contained conditions of approval thereof, and

WHEREAS, the City Council by Ordinance No. 1167–C.S., which became effective on January 26, 1972, and Resolution No. 71-1131 adopted by the City Council on December 20, 1971, amended Planned Development Zone, P-D(30), to permit additional uses, and

WHEREAS, an expansion of Planned Development Zone, P-D(30), was approved by the City Council by Ordinance No. 2096-C.S., which became effective on January 7, 1982, and Resolution No. 81-1031 adopted on November 24, 1981, approved additional medical/professional facilities including parking areas and ancillary buildings on property located east of Coffee Road and south of Locke Road, and

WHEREAS, Planning Commission Resolution No. 82-180 adopted November 15, 1982, approved a revised plot plan for Planned Development Zone, P-D(30), and

WHEREAS, the City Council by Ordinance No. 2403-C.S., which became effective on March 13, 1986, approved a 27,000 square-foot three-story addition atop an

existing one-story building, property located on the east side of Coffee Road, north of Lucern Avenue, and for an expansion of Planned Development Zone, P-D(30), to provide an off-street parking area that the southwest corner of Coffee Road and Lucern Avenue, and

WHEREAS, the City Council by Resolution No. 86-171 adopted February 4, 1986, approved an amended development plan for Planned Development Zone, P-D(30), and

WHEREAS, the City Council by Ordinance No. 2652-C.S., which became effective on April 6, 1989, approved an addition to Planned Development Zone, P-D(30), to allow a 272-space parking area property located on the west side of Sunnyside Avenue south of Lucern Avenue, and

WHEREAS, a verified application for an amendment to Sections 22-3-9 and 27-3-9 of the Zoning Map was filed by Sutter Gould Medical Foundation on July 27, 2005, to reclassify from Low Density Residential Zone, R-1, and Medium Density Residential Zone, R-2, to Planned Development Zone, P-D(30), as an addition to Planned Development Zone, P-D(30), for expansion of the Gould Medical Facility and relocation of the Medical Facility building located at 600 Coffee Road, described as follows:

R-1 to P-D(30)

BEING Lots 1,2,3,4,5,6, and 7 of Block 1032 as shown on the Map of Downey Manor, recorded in Volume 18 of Maps, at Page 32, Stanislaus County Records, together with the South half of the 60' wide Locke Road, the West 30.0 feet of the 50 foot wide Sunnyside Avenue and the North half of the 20' wide alley adjacent to said lots, lying in the Southwest Quarter of Section 22, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California.

Containing 1.89 acres of land.

R-2 to P-D(30)

BEING a portion of Lot 43 of the "Broughton Colony Tract", according to the Official Map thereof, filed in Volume 1 of Maps, at Page 78, Stanislaus County Records, lying in the Northeast Quarter of Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

BEGINNING at a point 170.5 feet South of the Northeast corner of Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian according to the United States Government Township Plats, thence West 182 feet; thence South 192 feet; thence East 182 feet to the East line of Section 28; thence Northerly along the East line of Section 28, 192 feet to the Point of Beginning.

Containing 0.8 acres of land.

BEING a portion of Lots 2 and 3 of "Sunnyside Acres" according to the Official Map thereof, filed in Volume 5 of Maps, at Page 45, Stanislaus County Records, and a portion of Lot 31 of the "Broughton Colony Tract" according to the Official Map thereof, filed in Volume 1 of Maps, at Page 78, Stanislaus County Records, lying in the Southwest Quarter of Section 22, and the Northwest Quarter of Section 27, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

BEGINNING at the Southwest corner of Lot 31 of the "Broughton Colony Tract" said Southwest corner is also the center line intersection of Lucern Avenue and Sunnyside Avenue; thence North 00°08'52" West along the center line of Sunnyside Avenue, 82.09 feet; thence departing said center line South 89°33'19" East, 264.36 feet to a point on the West line of Lot "G" as per the Map filed in Book 6 of Surveys, at Page 16, Stanislaus County Records; thence South 00°11'16" East along said West line, 82.06 feet to a point on the South line of Lot 31 of the Broughton Colony Tract; thence South 89°33'41" East along said South line, 65.58 feet to the Northeast corner of Lot 2 of Sunnyside Acres; thence South 00°11'29" East. 164.71 feet to the Southeast corner of said Lot 2; thence North 89°33'22" West along the South line of Lot 2, 165.03 feet; thence departing said South line North 00°10'47" West, 74.84 feet; thence North 89°33'22" West, 165.01 feet to a point on the East line of said Lot 3 of Sunnyside Acres, said point lies on the center line of Sunnyside Avenue; thence South 00°10'47" East, 75.07 feet along said center line to the Southeast corner of Lot 3; thence North 89°35'13" West along the South line of said Lot 3, 300.0 feet to the Southwest corner of that certain parcel designated as Assessor's parcel number 34-06-04; thence North 00°10'05" West along the West line of said parcel, 164.94 feet to a point on the center line of Lucern Avenue; thence South 89°34'42" East along said center line, 299.97 to the Point of Beginning.

Containing 2.61 acres of land.

WHEREAS, after a public hearing held on November 20, 2006, and continued to December 4, 2006, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2006-73, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. That the proposed amendment to the Planned Development Zone allows for the provision of expanded and upgraded medical facilities to serve the community.

2. That the proposed Planned Development Zone, by reason of its plot plan design and conditions of approval, will be compatible with the surrounding land uses, as the amendment is necessary to provide adequate parking for the existing medical facility. Parking is a compatible use within the mixed use and Residential zoning districts.

3. The proposed rezoning and P-D amendment are consistent with the Modesto Urban Area General Plan, as the existing facilities are within an existing development zone P-D(30) which allows for medical office uses. The medical office building will be relocated within the boundaries of this existing P-D zone. The proposed rezoning of parcels designated Residential would be used for surface parking, which is a conditional use in residential zones as adjunct to office or commercial uses. Parking is allowed in both R and P-D(30); however, the rezone provides consistency for the entire medical office building facilities within the P-D(30) zone. The Modesto Urban Area General Plan states that the zoning code and zoning map shall be the primary vehicle to guide future development in the Baseline Developed Area.

WHEREAS, said matter was set for a public hearing of the City Council to be held on January 9, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Sutter Gould Medical Foundation for an addition to Planned Development

Zone, P-D(30), and an amendment to the development plan should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2006-73 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3431-C.S. on the 9th day of January, 2007, reclassifying the above-described property from Low Density Residential Zone, R-1, and Medium Density Residential Zone, R-2, to Planned Development Zone, P-D(30), as an addition to Planned Development Zone, P-D(30).

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(30), is hereby approved subject to the following conditions:

1. All development shall conform to the site plan and elevations titled "Sutter Gould Medical Foundation 600 Coffee Road Replacement MOB Shell Package" stamped approved by the Planning Commission on December 4, 2006.

2. Prior to issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

3. Walls shall be constructed as follows:

   a.) Prior to any construction above the foundation of the medical office building, a six-foot high masonry wall shall be constructed as shown on the site plan to buffer the parking area along the south side of Locke Road, between Coffee Road and Sunnyside Avenue. An emergency access through said wall shall be provided if required by the Fire Marshal. The location of the emergency access shall not damage or interfere with the existing street trees on Locke Road.

   b.) Prior to occupancy of the medical office building, a seven-foot high masonry wall shall be installed along the western property line of the parking lot (APN 34-006-004) at the southwest corner of Sunnyside Avenue and Lucern Avenue.

c.) Prior to a foundation inspection for the office building, a 6-foot high masonry wall shall be constructed and enhanced screen landscaping as approved by the Parks, Recreation and Neighborhoods Director shall be installed to provide an adequate screen during the construction period around the northern, eastern, and southern perimeters of the proposed construction staging area and future parking lot to be located on APN's 32-012-037, 34-007-021, 34-007-022 on the east side of Sunnyside Avenue. Alternative fencing materials may be approved by the Community and Economic Development Director or designee.

4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

5. Street Trees shall be preserved as follows:

   a.) All street trees located along the south side of Locke Road shall be preserved

   b.) Mature street trees within the public right-of-way on Sunnyside, Lucern, and Coffee shall be preserved unless removal is necessary for street, sidewalk or driveway improvements required to meet City standards. Preference shall be given to native oak species.

   c.) Prior to issuance of a building permit, all street trees to be preserved shall be fenced and otherwise protected during the construction period to ensure their survival. A tree preservation plan for trees to be preserved, and a tree removal and replacement plan for trees to be removed, shall be submitted and approved by the Parks, Recreation, and Neighborhoods Department Director and Public Works Department Directors, or their designee.

6. All street dedications consistent with Standard Specifications shall be made prior to the issuance of a building permit or at any time requested by the City Engineer or designee to alleviate a health, safety, or traffic problem in the area.

7. Street improvements consistent to Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the City Engineer or designee to alleviate a health, safety, or traffic problem in the area.

8. Prior to the issuance of Certificate of Occupancy, the developer shall install the following street dedication and improvements as shown on the stamped approved plan per City Standards:

   a. Dedicate and improve the intersection of Coffee Road and Lucern Avenue, per the City of Modesto Standard of Specification Detail 379. Dedications and all curbs shall be built at ultimate locations as per detail.

b. Dedicate and improve Coffee Road at the intersection with Locke Road, per the City of Modesto Standard of Specification Detail 379. Dedications and all curbs shall be built at ultimate locations as approved by the City Engineer.

c. Dedicate and improve the southwest intersection of Locke Road and Sunnyside Avenue, per the City of Modesto Standard Specification Detail 377. Dedications and all curbs shall be built at ultimate locations as per detail. Improvements shall be required on Sunnyside Road only.

d. Dedicate and improve the intersection of Lucern and Sunnyside, per the City of Modesto Standard Specification Detail 377. Dedications and all curbs shall be built at ultimate locations as per detail.

e. Five-foot-wide sidewalks shall be permitted along Locke Road, Sunnyside Avenue and the South side of Lucern. 10-foot wide side-walks shall be required along Coffee Road and the North side of Lucern.

f. A bus turnout shall be installed along the project's frontage on Coffee Road north of Lucern Avenue.

g. A right-turn deceleration lane for the proposed driveway on Coffee Road shall be required. The deceleration lane must be at least 50 feet plus a taper.

h. The throat depth of the proposed driveway on Coffee Road shall be 100 feet to the first aisle or parking space on the site, measured from the new property line after right-of-way dedication.

i. The proposed driveway on Lucern Avenue shall be 240 feet from the signalized intersection of Coffee Road and Lucern Avenue measured from the new property line after the right-of-way dedication and the nearside of the proposed driveway.

j The throat depth of the proposed driveway on Lucern Avenue shall be 50 feet measured from the property line to the first aisle on site. The inbound lane should be reduced to 15 feet and the outbound side should be 24 feet for two lanes.

k. The driveways along Coffee and Sunnyside located at the existing alley entrances shall have a throat width of 30'

l. The taper shown on the East side of Sunnyside Avenue shall start at the South end of the alley property line and tie into the existing north end of the alley.

9. Prior to issuance of any permit for the installation of parking lots on APN's 32-0120-037, 34-007-21, 34-007-22, 34-002-002, and 34-002-003, plans for development shall be approved by the C&ED Director, or designee. If plans for these parcels are changed from the intended used solely as parking lots, the revised plans shall be subject to approval by the Planning Commission.

10. Demolition of the existing building shall begin within 6 months of issuance of Certificate of Occupancy for the new medical office building.

11. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

12. All weather, hard surfaced roadways shall be constructed and maintained free of obstructions prior to and at all times during construction.

13. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

14. Irrigation lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Easements for irrigation lines to remain shall be dedicated.

15. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.

16. Ten-foot-wide public utility easements, and six-foot-wide planting easements located within the ten-foot-wide public utility easements, as required by the City Engineer or designee shall be dedicated along all street frontages.

17. The developer must obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB) including the following items:

    a. A Notice of Intent (NOI) filed with the SWRCB. One copy of the NOI must be submitted to Development Services, Stormwater.

    b. A Stormwater Pollution Prevention Plan (SWPPP) to be prepared and held on site. One copy of the SWPPP must be submitted to Development Services, Stormwater.

18. Provide treatment to remove pollutants from the first ½ inch of stormwater runoff from all impervious areas of the site, including parking lots and building rooftops. For details, refer to the City of Modesto Guidance Manual for New Development Stormwater Quality Control Measures.

19. Prior to obtaining a grading permit, the developer shall provide owner-signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Development Services, Stormwater, for recording.

20. All storm drainage shall be retained on-site.

21. Prior to issuance of a Certificate of Occupancy, the following water line improvements shall be installed:

    a. The water line in Sunnyside Avenue from Lucern Avenue to Locke Road shall be upsized to an 8 inch line.

    b. The 2 inch water line in the alley shall be abandoned and removed.

    c. The 8 inch water line in Lucern Avenue shall be extended to Coffee Road.

    d. The old water services along Locke Road shall be abandoned and removed.

    e. New water services shall be installed to serve the new facility. The service will need to be upsized from the existing size.

    f. The water line in Locke Road shall be field-verified for size.

    g. The development shall provide the City with water demands.

    h. The water line used for fire service shall be looped.

22. Prior to issuance of a Certificate of Occupancy, the following sewer improvements shall be installed:

    a. The sewer line in Locke Road is currently at capacity and there are minimal flows on Lucern and Sunnyside. The sewer line shall be designed as approved by the City Engineer following field verification of pipe size.

    b. New service connections shall be made at the manhole at Coffee and Lucern and the old services abandoned and removed.

    c. The sewer line shall be connected to the 15" trunk line on Coffee Road.

23. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.

24. Trash enclosures shall be of a size and design to permit the storage and removal of required recyclable material receptacles, or a separate enclosure of the collection for recyclable materials shall be provided as approved by the Public Works Director or designee.

25. Trash enclosures shall be bermed to prevent stormwater run-on and graded to drain to adjacent landscape areas as required by the Public Works director or designee.

26. Trash enclosures shall be screened from view from any public street.

27. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building and Development Services all fire hydrants and FDC's required by the Fire Chief. All hydrants and FDC's required by the Fire Chief shall be installed and operable prior to construction of any structures.

28. Internal circulation shall provide adequate emergency services access as determined by the Fire Chief.

29. The fire department connection(s) shall be accessible and within 90 feet of a fire hydrant.

30. Details shall be shown of the underground fire main supplying the fire sprinkler system and fire hydrants on the plans. Type and size of pipes, associated underground valving, and location of FDC shall also be shown on the plans.

31. All signs shall comply with the sign requirements of the P-D(30) Zone.

32. The new entry sign on Lucern Avenue shall be moved 10 feet north from the location shown on the site plan to allow adequate sight distance.

33. The new entry sign on Coffee Road shall be moved 10 feet east of the location shown on the site plan to allow adequate sight distance.

34. Operations conducted on the premises shall not cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration, or electrical interference detectable off the premises. All machinery or equipment shall be soundproofed as required by the Chief Building Official.

35. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited

to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

36. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

37. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

38. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.

39. Prior to issuance of a building permit for each of the buildings within the development, the applicant shall pay the water connection fees at the rate in effect at the time of issuance of the building permit.

40. All conditions of Resolution No.'s 67-352, 71-1131, 81-1031, 86-171, 89-371 not in conflict with this action shall remain in full force and effect.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

41. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

42. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

43. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

44. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of

dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

45. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/ suppressant.

46. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

47. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

48. Suspend excavation and grading activity when winds exceed 20 mph.

49. Limit the area subject to excavation, grading and other construction activity at any one time.

50. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

    The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

    a. A hammer or any other device or implement used to pound or strike an object.

    b. An impact wrench or other tool or equipment powered by compressed air.

    c. A hand-powered saw.

    d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

    e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

    f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or

pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

51. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(30) as an addition to Planned Development Zone, P-D(30):

It is recommended that the construction program be accomplished in two phases as follows:

Phase I - Construction to begin on or before January 9, 2009 and completion to be no later than January 9, 2010.

Phase II - Construction to begin on or before January 9, 2010 and completion to be not later than January 9, 2011.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(30), as an addition to Planned Development Zone, P-D(30),becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By Steve Mitchell
Community & Economic Development Department
Planning Division

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-064

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDMENT TO SECTIONS 22-3-9 AND 27-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, AND MEDIUM-DENSITY RESIDENTIAL ZONE, R-2, TO PLANNED DEVELOPMENT ZONE, P-D(30), AS AN ADDITION TO PLANNED DEVELOPMENT ZONE,P-D(30), FOR PROPERTIES LOCATED ON LOCKE ROAD, LUCERN AVENUE, AND THE SOUTHEAST CORNER OF COFFEE AND LUCERN AND TO AMEND P-D(30) TO ALLOW FOR THE REDEVELOPMENT OF THE SUTTER GOULD MEDICAL FACILITY INCLUDING A NEW RELOCATED MAIN BUILDING AT 600 COFFEE ROAD.

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Sutter Gould Medical Foundation has proposed that the zoning designation for properties located on Locke Road, Lucern Avenue, and the Southeast corner of Coffee and Lucern be amended from Low Density Residential Zone, R-1, and Medium Density Residential Zone, R-2 to Planned Development Zone, P-D(30), as an addition to Planned Development Zone, P-D(30), and to allow for the redevelopment of the Sutter Gould Medical Facility including a new relocated main building at 600 Coffee Road, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master

environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2006-53 ("Initial Study") reviewed the proposed Amendment to the Zoning Map from Low Density Residential Zone, R-1, and Medium Density Residential Zone, R-2 to Planned Development Zone, P-D(30), and Amendment to Planned Development Zone, P-D(30) to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines begininning on December 19, 2006, City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 9, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed Rezone from Low Density Residential Zone, R-1, and Medium Density Residential Zone, R-2 to Planned Development Zone, P-D(30), and Amendment to Planned Development

Zone, P-D(30), a copy of which is attached hereto as **Exhibit "A",** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of January 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

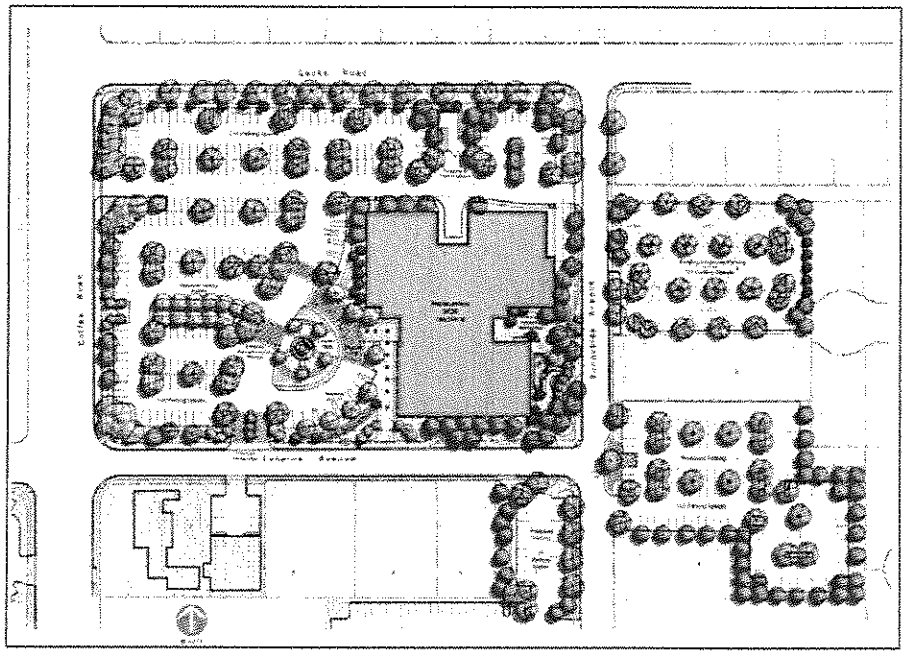
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Initial Study and Finding of Conformance to the
Modesto Urban Area General Plan Master EIR

Sutter Gould Medical Foundation Medical Office Building Expansion and Amendment to Planned Development Zone 30 Project

C&ED No. 2006-53



Prepared for:

City of Modesto
Community & Economic
Development Department
Planning Division

November 1, 2006

EDAW | AECOM

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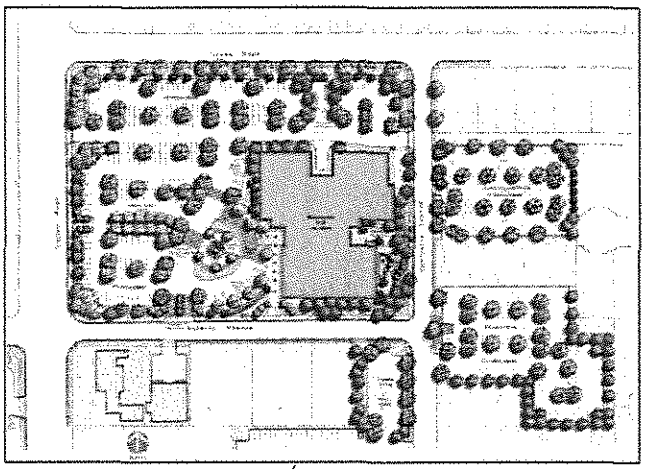

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November 1, 2006

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I. PURPOSE

Section 21157 of the California Environmental Quality Act (CEQA) and CEQA Guidelines Section 15177 allow for limited environmental review of subsequent projects under a Master Environmental Impact Report (EIR). This Initial Study Checklist is being used to determine whether the **Sutter Gould Medical Foundation Medical Office Building Expansion and Amendment to Planned Development Zone 30** is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code Section 21157.1), most recently updated in March 2003. If the Initial Study determines the project is within the scope of the Master EIR analysis, the City will issue a finding of conformity.

Section 15177(b) of the CEQA Guidelines states that neither a new environmental document nor the preparation of findings pursuant to Section 15091 shall be required of a subsequent project when all the following requirements are met:

1. The lead agency for the subsequent project is the lead agency or any responsible agency identified in the Master EIR.

2. The lead agency for the subsequent project prepares an Initial Study on the proposal. The Initial Study shall analyze whether the subsequent project was described in the Master EIR and whether the subsequent project may cause any additional significant effect on the environment which was not previously examined in the Master EIR.

3. The lead agency for the subsequent project determines, on the basis of written findings, that no additional significant environmental effect will result from the proposal, no new additional mitigation measures or alternatives may be required, and that the project is within the scope of the Master EIR. "Additional significant environmental effect" means any project-specific effect which was not addressed as a significant effect in the Master EIR.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR (Public Resources Code Section 21158[d]).

The determination of conformity must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion (CEQA Guidelines Section 15384).

The City of Modesto was the lead agency for the Master EIR and is the lead agency for this Initial Study. City staff consulted with appropriate Responsible Agencies and City Departments regarding potential environmental impacts associated with this project. Any significant comments or conditions are incorporated into this Initial Study. The City's Master EIR was also consulted, which lists both Modesto Urban Area General Plan policies and mitigation measures for each area of environmental study.

II. PROJECT DESCRIPTION

PROJECT INFORMATION		
1.	Project Title:	Sutter Gould Medical Foundation Medical Office Building Expansion and Amendment to P-D (30)
2.	Lead Agency Name and Address:	City of Modesto Community and Economic Development Department, Planning Division 1010 Tenth Street, Suite 3300, Modesto, CA 95353
3.	Contact Person and Phone Number:	Steve Mitchell, Principal Planner (209)577-5276
4.	Project Location:	Sutter Gould Medial Office Building 600 Coffee Road, Modesto, CA 95355 APN 032-12-33 through 38 APN 032-12-54 APN 032-12-21 and 22 APN 034-07-20 APN 034-06-01 through 05 APN 034-06-21 and 22 APN 032-12-28 through 32
5.	Project Sponsor's Name and Address:	Sutter Gould Medical Foundation 600 Coffee Road, Modesto, CA 95355
6.	General Plan Designation:	According to Figure II-1 on page II-8 of the Modesto Urban Area General Plan, the project site is located in the Baseline Developed Area. In addition, Figure III-1 of the General Plan, the Adopted Land Use Diagram (revised June 19, 2003), designates the project site as Mixed Use (MU) and Residential (R).
7.	Zoning:	Planned Development Zone (P-D [30]) Low Density Residential (R-1) Medium Density Residential (R-2)
8.	Description of Project:	See pages three through eight
9.	Surrounding Land Uses and Setting: (Briefly describe the project's surroundings)	The medical office building is surrounded by single family residential and a parking lot to the north along Locke Road, single family residential and a parking lot to the east along Sunnyside Avenue, and single family residential and an office to the south along Lucern Avenue. In addition, John Muir elementary school and another parking lot are located to the west of the medical center, on the west side of Coffee Road. The surrounding land uses are shown on Exhibit 4.
10.	Other public agencies whose approval is required: (e.g., permits, financing approval, or participation agreement)	City of Modesto (various departments) and utility will-serve letters

II. PROJECT DESCRIPTION (Continued)

Background

The Sutter Gould Medical Foundation (Sutter) proposes an on-site relocation and expansion of the existing medical office building located at 600 Coffee Road in the City of Modesto (City) (Exhibits 1 and 2). The existing facility was originally constructed in 1954 and currently consists of approximately 99,500 square feet (sf) of medical offices and associated medical and administrative uses (Exhibit 3). The existing building is four stories (61 feet in height) and constructed of wood, steel and concrete. There are currently a total of 779 parking spaces for staff and visitors. The main lot, located east of the medical office building and accessed from Lucern Avenue (Exhibit 3, site key "B"), provides 238 parking spaces for patients (including ten handicapped spaces). A second patient parking lot is located at the corner of Coffee Road and Locke Road (Exhibit 3, site key "D") and provides an additional 17 parking spaces (including two handicapped spaces). Physician parking is provided in the 100-space parking lot on Sunnyside Avenue (Exhibit 3, site key "G"). Additional staff parking is provided in two lots, the lot located at the southwest corner of Coffee Road and Lucern Avenue provides 125 spaces (Exhibit 3, site key "Q") and the lot located southeast of the medical office building on Sunnyside Avenue (Exhibit 3, site key "N"), provides 289 spaces. There are also ten parking spaces associated with the administration building located on Lucern Avenue, just south of the medical office building (Exhibit 3, site key "P"). The medical office building is surrounded by detached single family houses to the north along Locke Road, to the east along Sunnyside Avenue, and to the south along Lucern Avenue (zoned Low Density Residential [R-1] and Medium Density Residential [R-2]). In addition, John Muir Elementary School is located to the west of the medical center, on Coffee Road (Exhibit 4).

The current facility provides primary care (internal medicine and family practice), laboratory, imaging, clinical research, occupational medicine, same-day clinic, allergy, dermatology, endocrinology, oncology, rheumatology, neurology, ear-nose-throat, urology, audiology, pulmonology, and podiatry. The medical offices are open Monday through Friday from 8:00 AM to 5:00 PM The laboratory is open Monday through Friday from 7:00 AM to 5:30 PM and the same-day clinic is open from 8:00 AM to 8:00 PM Monday through Friday and 8:00 AM to 6:00 PM on Saturday, Sunday, and holidays (except Christmas and Thanksgiving). The facility has an estimated 387 staff on site during regular business hours. This estimate is based on the various work shifts that the departments have to best serve their patients. There are also approximately ten janitorial staff that work from 5:00 PM to 2:00 AM Monday through Friday. Between 9:00 AM and 5:00 PM, it is estimated that there are approximately 94 patients on site at any one time. After 5:00 PM, the patient population is estimated to drop to approximately 25 because the only department that is routinely open at this time is the prompt care clinic. Due to the volume of staff and patients and the age of the facility, the facility is experiencing over crowding and the facilities and equipment are out of date and need to be modernized.

Project Objectives

The project is intended to provide sufficient building space and a more modern and efficient medical facility with improved parking to serve the current numbers of staff and visitors. The specific objectives of the project are to:

- Rezone the project area through an amendment to the existing Planned Development Zone (P-D [30]) to allow expansion of the facility.
- Expand the medical office facilities as cost-effectively as possible to meet forecasted demand for medical services in the community.

- Continue to provide the same level of medical service during construction.
- Provide adequate parking to serve the projected demand and prevent on-street parking in the surrounding neighborhood.
- Provide more efficient parking access via Coffee Road.

Project Characteristics

Amend Existing Planned Development Zone (P-D [30])

The project would involve rezoning the following parcels, which are owned by Sutter Gould, from Low Density Residential (R-1) and Medium Density Residential (R-2) to Planned Development Zone (P-D [30]) through an amendment to the P-D (30) zone boundaries:

- The single family houses along the northern portion of the project site on Locke Road (1306, 1310, 1314, 1318, 1322, 1326, and 1330 Locke Road, identified in Exhibit 3 as site key "E, F, S, T, U, V, and W"), currently zoned R-1;
- The vacant parcels near the intersection of Lucern Avenue and Sunnyside Avenue intersection, identified as Exhibit 3, site key "I" and "K," currently zoned R-2;
- The two single family houses on Lucern Avenue, identified in Exhibit 3 as site key "L" and "M," currently zoned R-2 ; and
- The vacant lot near the intersection of Coffee Road and Lucern Avenue, identified in Exhibit 3 as site key "R," currently zoned R-2.

After the amendment to P-D (30), the single family houses along the northern portion of the project site on Locke Road would be demolished and replaced by surface parking for the medical office building. The vacant lots would also be used for surface parking. (Parking is described in detail below.) The two single family houses on Lucern Avenue (Exhibit 3, site key "L" and "M") would not be redeveloped and would remain as single family houses.

Alley Abandonment

A request has been submitted to abandon the existing public alley that runs along the north side of the existing medical office building between Coffee Road and Sunnyside Avenue. If abandonment is approved, the alley would become a two-way driveway in the on-site medical office building parking lot. The alley would be reserved as a utility easement if the utility companies need to continue to service the corridor, and the utilities would be undergrounded so as not to conflict with the replacement medical office building.

Replacement Medical Office Building

As shown in Exhibit 5, the replacement medical office building would be located on-site directly adjacent and east of the existing facility on property owned by Sutter Gould that currently provides 238 surface parking spaces for patients (Exhibit 5, site key "B"). Because the replacement medical office building would be constructed on this parking lot, the 238-space patient parking lot would be demolished during construction. (Parking during and after construction is discussed in detail below.) The replacement building would be four stories in height (61 feet), would have a building footprint of approximately 47,000 sf, and would provide a total of approximately 144,000 sf of space. The exterior of the building would be stucco, curtain wall, and glazing and the colors would incorporate aspects of the natural materials in the surrounding areas (Exhibits 6 through 8). The proposed glazing would be an insulated glazing, which is tinted, heat absorbing, and light reducing. Lighting would be provided around the

building, along walkways, and in the parking lots. The primary Sutter Gould facility name exterior signage would be located on the corner of Coffee Road and Lucern Avenue, with secondary directional signage at the vehicle and pedestrian entrances.

The square footage of the replacement medical office building would increase by approximately 44,500 sf over the existing building to improve flow, comply with Americans with Disabilities Act (ADA) and City codes, and provide space for modernized equipment. The facility would continue to provide the same services as it currently provides and would provide the same hours of operation (described above). Sutter Gould anticipates that the number of staff at any one time would remain at approximately 387, but that the estimated patient load at any one time would increase to approximately 109.

Parking

Parking for the existing medical office building and for the replacement building would be provided in multiple parking lots throughout all phases of construction to facilitate the transition of operations to the replacement building. As described above, because the replacement medical office building would be constructed on the parking lot adjacent to the existing medical office building (Exhibit 5, site key "B"), the 238-space patient parking lot would be lost during construction. However, the existing staff parking lot at the southwest corner of Coffee Road and Lucern Avenue (Exhibit 5, site key "Q") with 125 spaces and the two staff parking lots on Sunnyside Avenue, which would provide 100 spaces (Exhibit 5, site key "G") and 282 spaces (Exhibit 5, site key "N"), would also be made available for patient parking during construction. To provide additional parking, a new 26-space surface parking lot would be constructed in the first phase of construction at the southwest corner of the Lucern Avenue and Sunnyside Avenue intersection (Exhibit 5, site key "K"). Furthermore, the ten spaces at the administration building on Lucern Avenue would remain in place.

The residences along the northern portion of the site (1306, 1310, 1314, 1318, 1322, 1326, and 1330 Locke Road, identified on Exhibit 5 as site key "E, F, S, T, U, V, and W") would be rezoned to P-D (30) and would be demolished and replaced by surface parking for the replacement medical office building. During construction, a portion of this area would provide approximately 50 new surface parking spaces for patients. At buildout of the project, there would be a total of 110 spaces provided along the northern boundary of the project site. In addition, the vacant lot to the east of the Lucern Avenue and Sunnyside Avenue intersection, identified on Exhibit 5 as site key "I," would be rezoned to P-D (30) and used for additional parking. During construction, the "I" lot would be used for construction staging; after construction is complete, it would be developed into a 135-space surface parking lot.

After the replacement medical office building is operational and the existing building is demolished, the new main patient parking lot would be constructed to the west of the replacement building. This surface parking lot would provide 150 parking spaces. The total parking spaces for the replacement medical office building would be 938 spaces, an increase of 159 spaces over the existing parking supply. All of the parking lots for the completed project are illustrated in Exhibit 5.

Site Access

The vehicular access points to/from the replacement medical office building would remain the same as the current access points. The primary patient access would continue to be provided from Lucern Avenue. During construction, service entry/exit would continue to occur via the alley that runs east-west between Coffee Road and Sunnyside Avenue. Under the project, the

alley would be abandoned and would become a two-way driveway in the on-site parking lot, but it would continue to act as a service entry/exit. A "No Left Turn" sign would be posted at the service exit on Coffee Road.

Public Improvements

A bus turnout would be constructed on the east side of Coffee Road in front of the medical office building. Road widening would also be implemented on Coffee Road approaching Locke Road, to provide a deceleration lane. The right-hand-turn from Lucern Avenue onto Coffee Road would also be improved to adjust to the road widening on Lucern Avenue and the bus turn out on Coffee Road. To accommodate the road widening, bus turnout, and deceleration lane, all of the curb, gutter, and sidewalks would be replaced on the east side of Coffee Road, the western portion of Locke Road along the northern boundary of the site, and the western side of Sunnyside Avenue bordering the medical office building. In addition, where necessary along portions of Lucern Avenue, portions of Locke Road, and the east side of Sunnyside Avenue, curb and gutters damaged due to construction would be replaced and new sidewalk easements would be dedicated to the City of Modesto as necessary.

Utilities

The City of Modesto would continue to serve the medical office building with water and wastewater. The water supply pipeline in Lucern Avenue would be upgraded from a six-inch line to an eight-inch line and the water supply pipeline in Sunnyside Avenue would be upgraded from a four-inch line to an eight-inch line. In addition, the wastewater pipeline in Lucern Avenue would be upgraded from a six-inch line to an eight-inch line and the wastewater pipeline in Sunnyside Avenue would be upgraded from a four-inch line to an eight-inch line. Both the water and wastewater line replacements are consistent with the City's design criteria for such facilities and the replacements are being implemented to address existing water pressure problems.

The Modesto Irrigation District (MID) would continue to provide electricity to the replacement medical office building. If possible, the electrical lines would be undergrounded in the alley as part of the project. Natural gas would continue to be provided by PG &E. Telephone service would continue to be provided by AT&T.

In accordance with the City's requirements, all stormwater would be retained and infiltrated on-site through special medial filtration drainage inlets, tied into rock-well drains that allow the water to percolate into the ground.

Tree Removal

The project site currently has 123 mature ornamental trees, which include a mix of species such as *Eucalyptus* sp., *Podocarpus* sp., oak (*Quercus* sp.), pistachio (*Pistacia* sp.), birch (*Betula* sp.), carob tree (*Ceratonia* sp.), sweet gum (*Liquidambar* sp.), elm (*Ulmus parvifolia*), locust (*Robinia* sp.), and maple (*Acer* sp). Construction of the replacement medical office building and associated parking would require the removal all of the trees located on the interior of the block bound by Coffee Road, Locke Road, Sunnyside Avenue, and Lucern Avenue. In addition, approximately 50 street trees would need to be removed along Coffee Road, Locke Road, Sunnyside Avenue, and Lucern Avenue to widen the roads and make street improvements. However, all street trees would be replaced as part of the project, as shown in Exhibit 9. The primary street trees to be preserved would be along the northeastern corner of the block on Locke Road, and emphasis would be placed on preserving native oak trees where feasible. All street trees to be preserved would be fenced during construction to protect them from construction disturbance.

Landscaping

The project landscaping would consist of preservation of limited street trees, with specific concern for native oak species, and the introduction of trees and shrubs suitable to site-specific conditions that require minimal maintenance but provide visual color and interest. Plantings would be massed, with variety showing up at entrances, seating areas, the fountain at the building entrance, and the Healing Garden at the southeast corner of the building (Exhibit 5). Turf areas would be limited to streetscape and functional zones. Meandering pedestrian paths would connect parking lots to the medical office building. Drought tolerant and hardy shrubs and ground covers are proposed for landscaping around the building and along the perimeter of the site. Shade trees would be planted in the parking lots and near walkways to cut down on the sun exposure to the asphalt and concrete. The tree planting plan for the new medical office building is shown in Exhibit 10.

Shrub plantings would include evergreens, consisting of species such as *Abelia grandiflora*, *Escallonia*, *Phormium tenax*, *Ligustrum*, *Viburnum*, *Coleonema pulchrum*, *Lavatera maritima*, *Cistus purpureus*, *Xylosma congestum*, and *Rhaphiolepis indica.* Ground covers and foreground accents would consist of species such as *Hemerocallis hybridus*, *Lantana*, *Agapanthus africanus*, *Dietes vegeta*, *Tulbaghia violacea*, *Cotoneaster lowfast*, *Verbena*, *Rosa*, *Myoporum*, and *Ceanothus.* Turf would be a dwarf fescue. Ornamental tree species would include *Prunus* sp., *Pyrus calleryana*, and *Lagerstroemia indica.* Shade trees in the parking lots may include *Zelkova serrata, Pistacia chinensis, Ulmus parvifolia, Cinnamomum camphora, Quercus rubra*, and *Nyssa sylvatica.* Mature perimeter trees would be preserved where possible and new perimeter trees may include *Quercus* sp., *Pistacia chinensis*, *Liquidambar* sp., *Betula pendula*, *Eucalyptus sideroxylon*, and *Gledistsia triacanthos.* However, the final perimeter tree selections would be coordinated with the City of Modesto.

The landscaping would be irrigated. Plants having similar needs would be grouped in "hydrozones" so that the irrigation system can efficiently provide water. The system would be designed to minimize over spray onto impervious surfaces and the irrigation system would be programmed to be consistent with the days and hours established by the City of Modesto water conservation program. In addition, rain-sensing override devices would be installed on the irrigation system.

Construction Schedule and Phasing

Construction is estimated to begin early 2007 and to be completed in 2009. Because the existing medical office building would remain in operation while the replacement building is under construction, construction would occur in phases to provide sufficient parking, vehicular access, and pedestrian access. The construction phasing is summarized below and shown in Exhibits 11a through 11c.

Phase 1. New ADA accessible parking stalls would be provided at the existing medical office building front entry and the parking lot at Coffee Road and Locke Road would be restriped for ADA accessible stalls. The water and wastewater pipeline upgrades would be completed in Lucern Avenue and then in Sunnyside Avenue. The sidewalk along Lucern would be upgraded for improved pedestrian access and the entry/exit to the physician's parking lot on Sunnyside (Exhibit 11a, site key "G") would be reconstructed and new signage installed. All of the houses fronting Locke Road along the northern boundary of the project site would be demolished, and a landscape wall and landscaping would be constructed. Approximately 50 parking spaces would be constructed near the existing parking lot at the corner of Coffee Road and Locke Road (Exhibit 11a, site key "E" and "F"). Temporary construction access may be provided from Locke

Road. Finally, a new parking lot would be constructed at the southwest corner of the Lucern Avenue and Sunnyside Avenue intersection (Exhibit 11a, site key "K") to provide an additional 26 spaces.

Phase 2. The area immediately east of the existing medical office building, including the existing parking lot and the demolished housing sites, would be fenced off to prepare for construction of the replacement medical office building. The fenced-off area would be cleared, graded, and the replacement medical office building would be constructed. As the medical office building is being completed, the parking would be constructed in the northeastern corner of the site (Exhibit 11b, site key "S T, U, V, W") and landscaping around the replacement building would be installed.

Phase 3. The fencing around the replacement building would be removed and the building would become operational. For approximately two months, the old building and the replacement building would both be operational as staff transition into the replacement building. Once the transition of all offices is complete, the old building would be demolished, which would take approximately four months to complete. The roadway improvements and bus turn out on Coffee Road would be completed, the new patient parking lot would be constructed, and final landscaping features would be installed. After construction staging is removed (Exhibit 11c, site key "I"), the final parking lot on Sunnyside Avenue would be constructed.

Construction staging would be provided in the lot located east of the Lucern Avenue and Sunnyside Avenue intersection (Exhibit 11c, site key "I"). If necessary, construction staging could also be provided at the northeast corner of the block (near Locke Road and Sunnyside Avenue). Temporary parking for construction workers would be provided in the vacant lot on Coffee Road near Lucern Avenue (Exhibit 11c, site key "R"), which would be graded and graveled.

Typical construction equipment may include backhoes, jackhammers, loaders, excavators, dozers, concrete pumpers, concrete batch trucks, delivery trucks, and haul trucks. No pile drivers would be used during construction.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. _X_ **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and it has been determined that the project was described in the Master EIR as being within the scope of the Master EIR.

D. Based on the Initial Study, the City of Modesto finds and determines:

a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the Master EIR.

b) No new or additional mitigation measures or alternatives are required.

2. ___ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ___ **Focused EIR Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the Master EIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the Master EIR analysis and is within the scope of the Master EIR. Any "No" response must be discussed.

	YES	NO
(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐

(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to this document.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in the Modesto Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all applicable mitigation measures identified in the Modesto Urban Area General Plan Master EIR.	X	☐

Discussion:

(1) The City of Modesto was the lead agency for the Master EIR and is the lead agency for this Initial Study. The City is also responsible for the P-D (30) zone amendment and processing the requested land use entitlements (building permits).

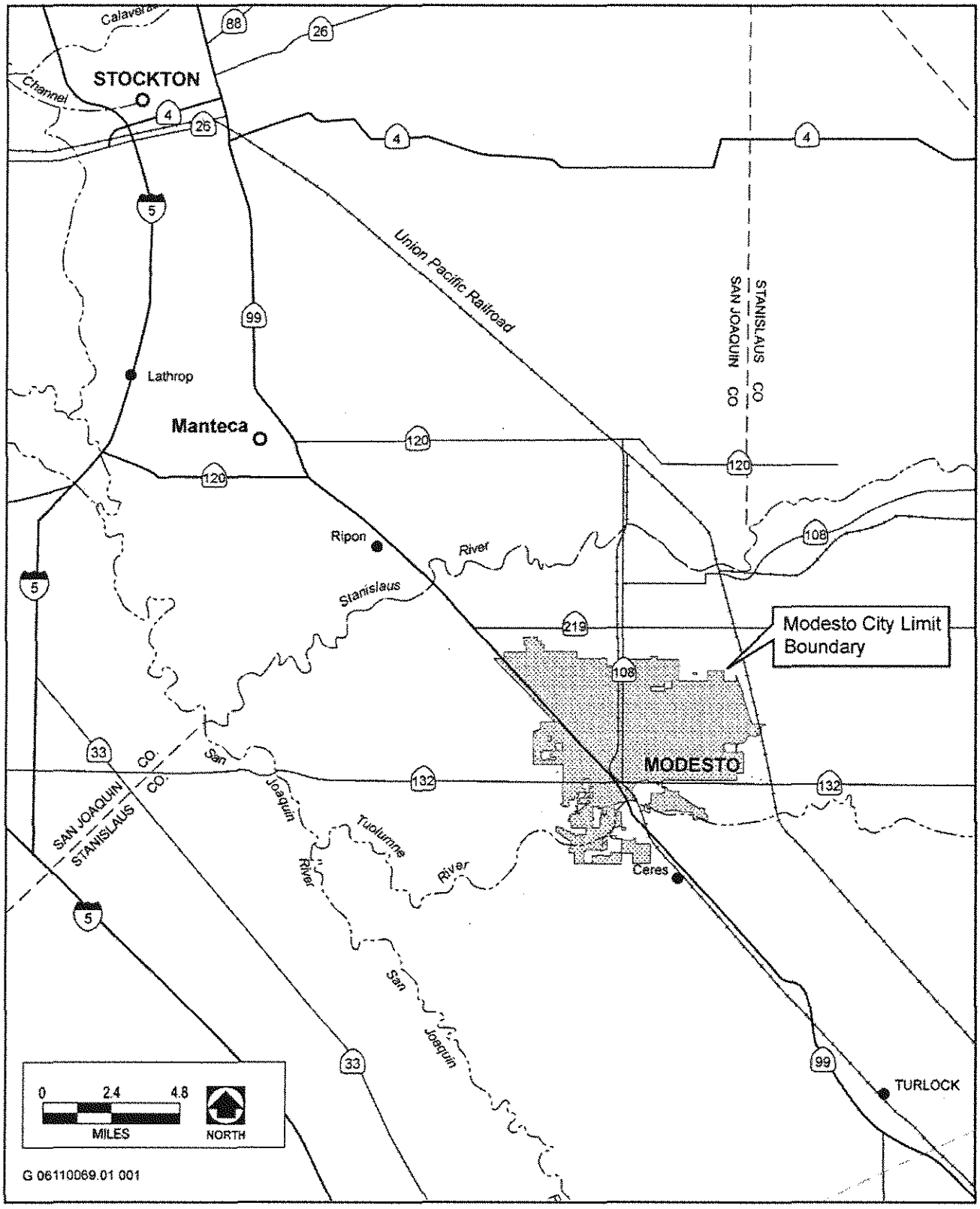
(2) As described throughout this Initial Study, all City policies that reduce, avoid, or mitigate environmental effects would be applied to the project where appropriate. Section V of this Initial Study presents the applicable mitigation measures from the Master EIR that will be applied as part of the project.

(3) The Master EIR was last updated in March 2003. Since that update, there have been no changes to Federal, State, Regional and County regulations that have resulted in less restrictive regulations.

(4) As analyzed in the "Project Specific Effects" for each resource area in Section IV, no known or potential presence of significant resources has been identified that would result in new or greater environmental effects than those identified and addressed in the Master EIR. In addition, review by responsible agencies, trustee agencies and the public did not identify significant resources or effects that had not been addressed in the Master EIR.

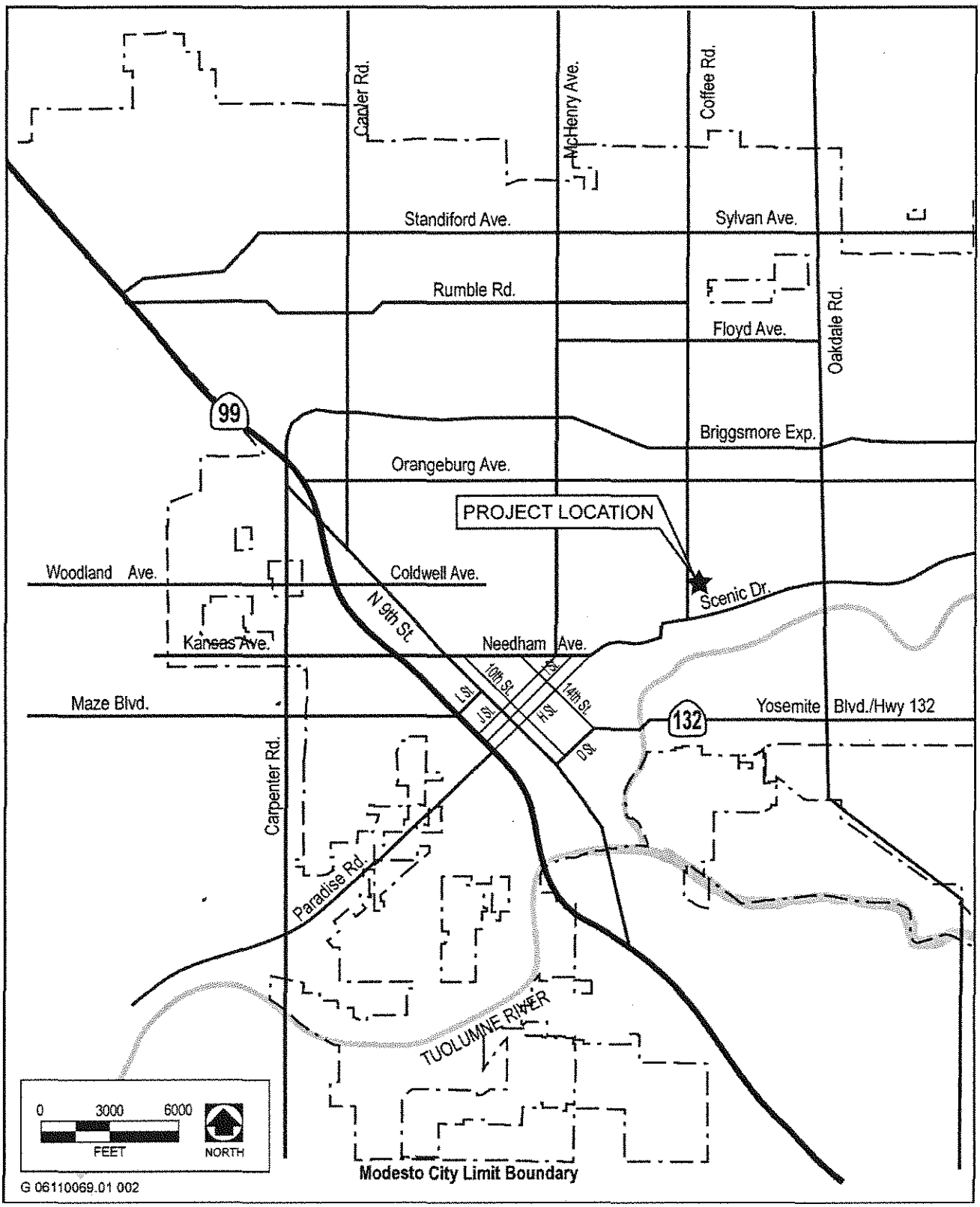
(5) The project site is located within the Modesto Urban Area General Plan in the Baseline Developed Area, as shown on Figure II-1 on page II-8 in the General Plan.

(6) A list of Modesto Urban Area General Plan policies and Master EIR mitigation measures was reviewed (which is attached to this document). Section V of this Initial Study presents the applicable mitigation measures from the Master EIR that will be applied as part of the project.



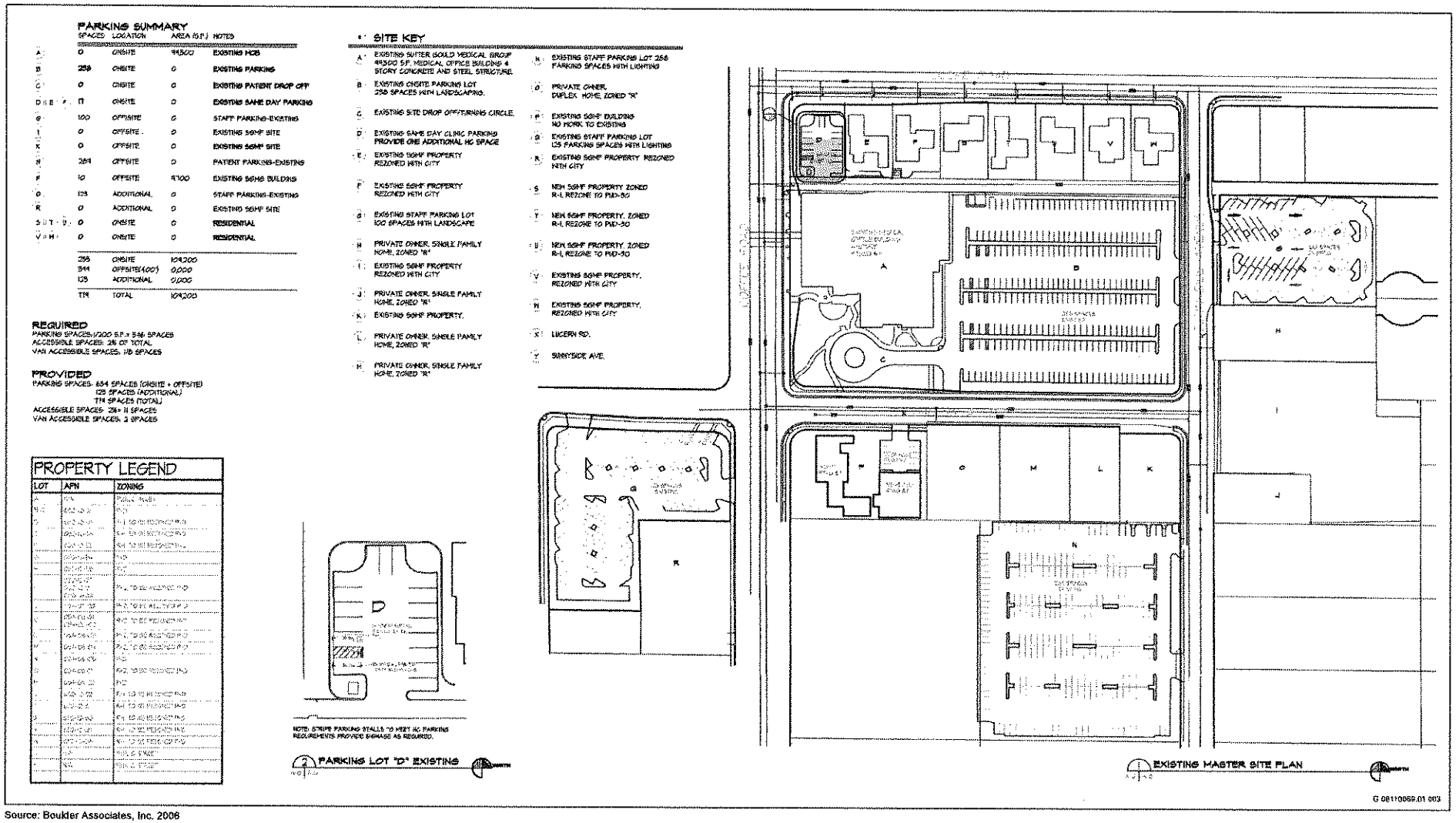
Source: Base map adapted from CSAA, Bay and Mountain Section 1999

Regional Location Map **Exhibit 1**



Source: City of Modesto

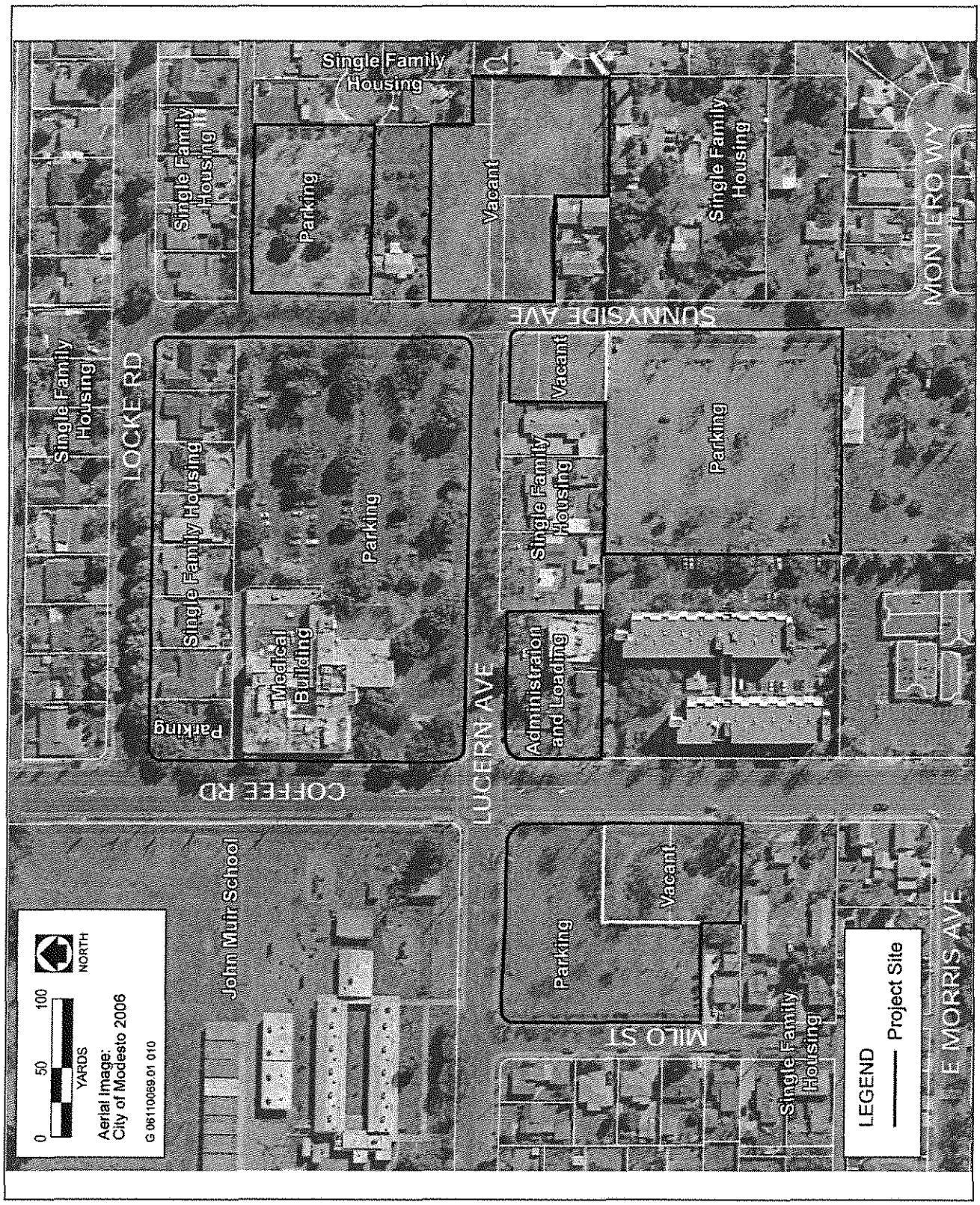
Site Location Map **Exhibit 2**



Source: Boulder Associates, Inc. 2006

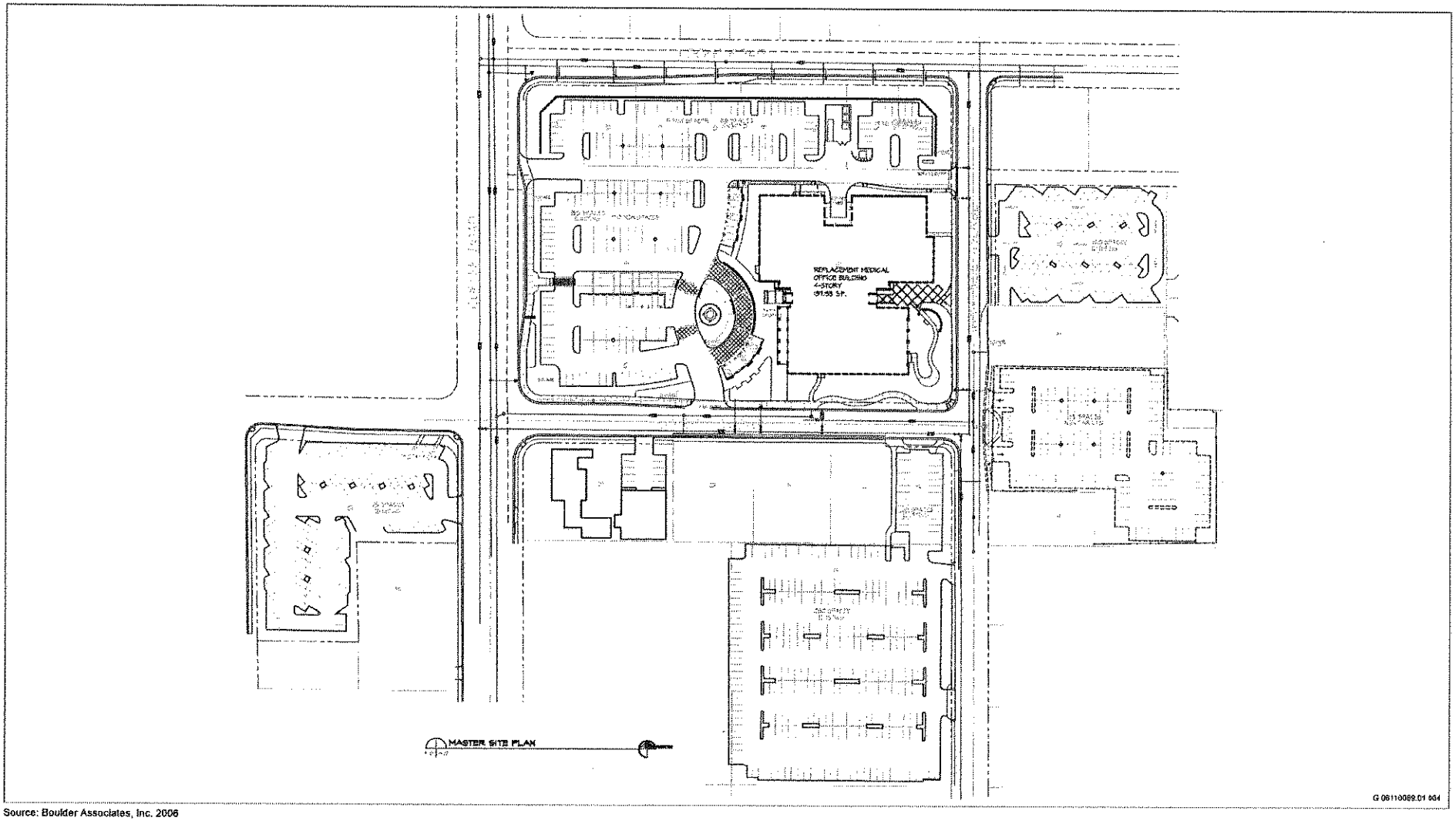
Existing Medical Office Building

Exhibit 3



Source: City of Modesto 2006

Surrounding Land Uses **Exhibit 4**



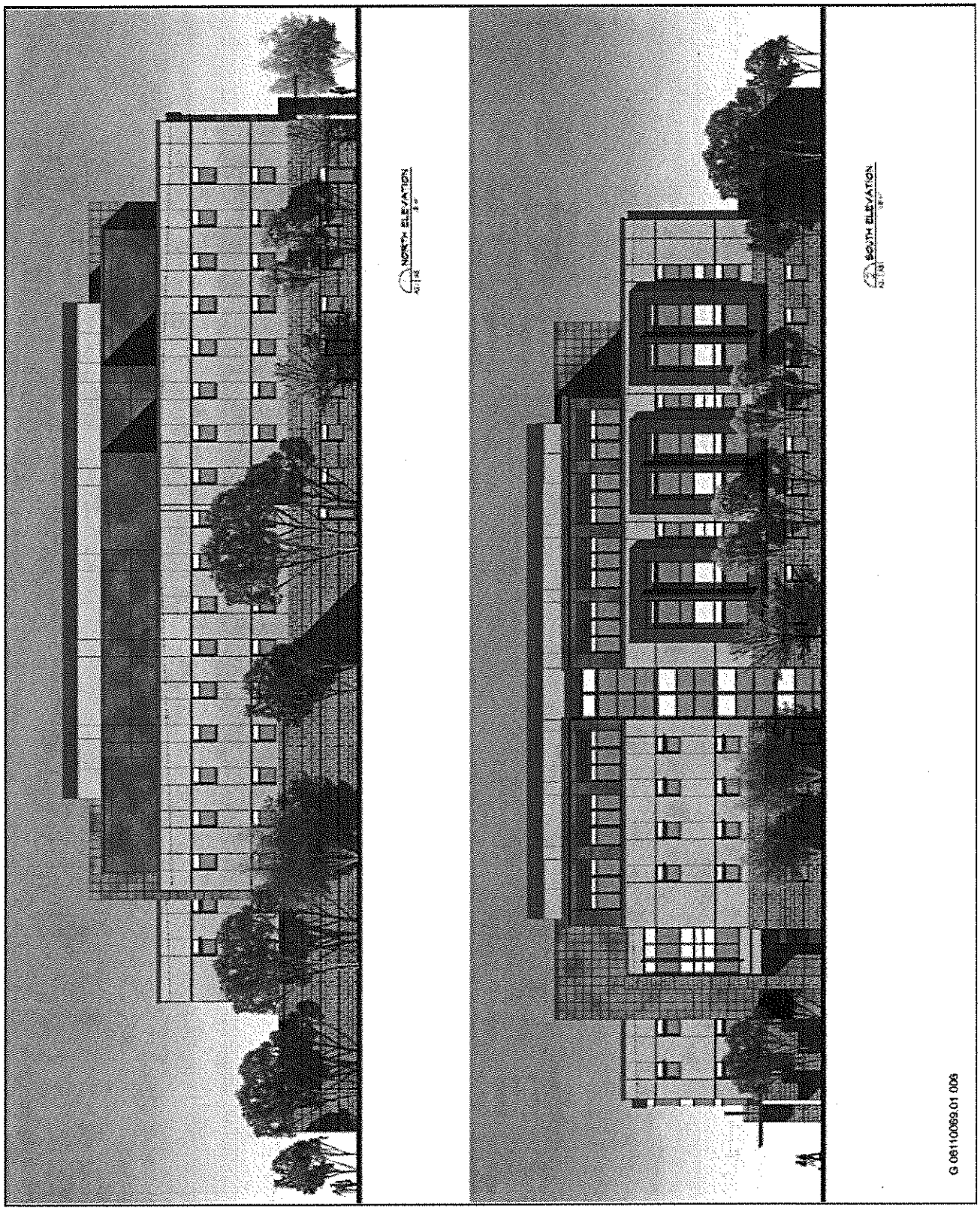
Source: Boulder Associates, Inc. 2006

Proposed Site Plan

Exhibit 5

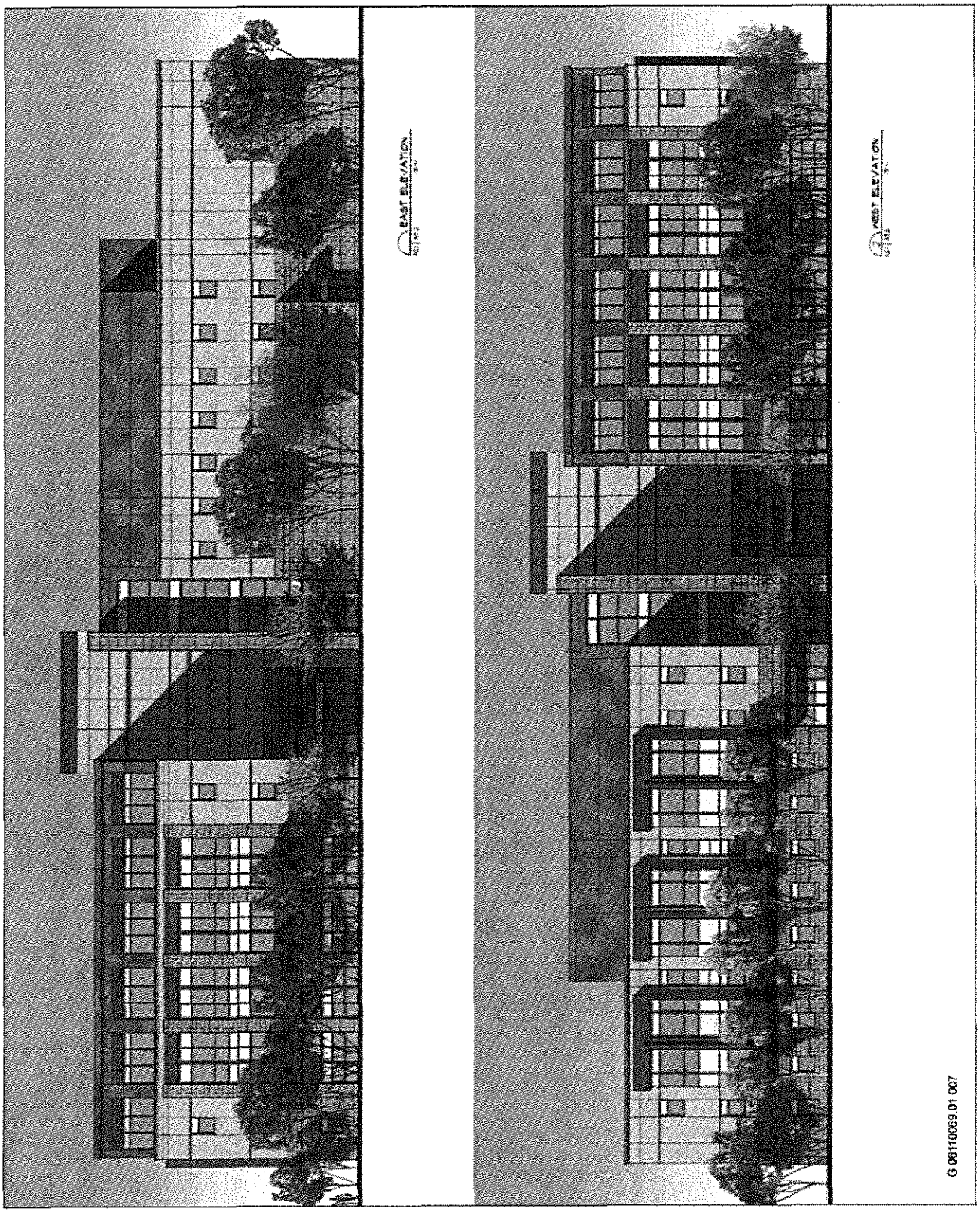
Source: Boulder Associates, Inc. 2006

Architectural Rendering **Exhibit 6**



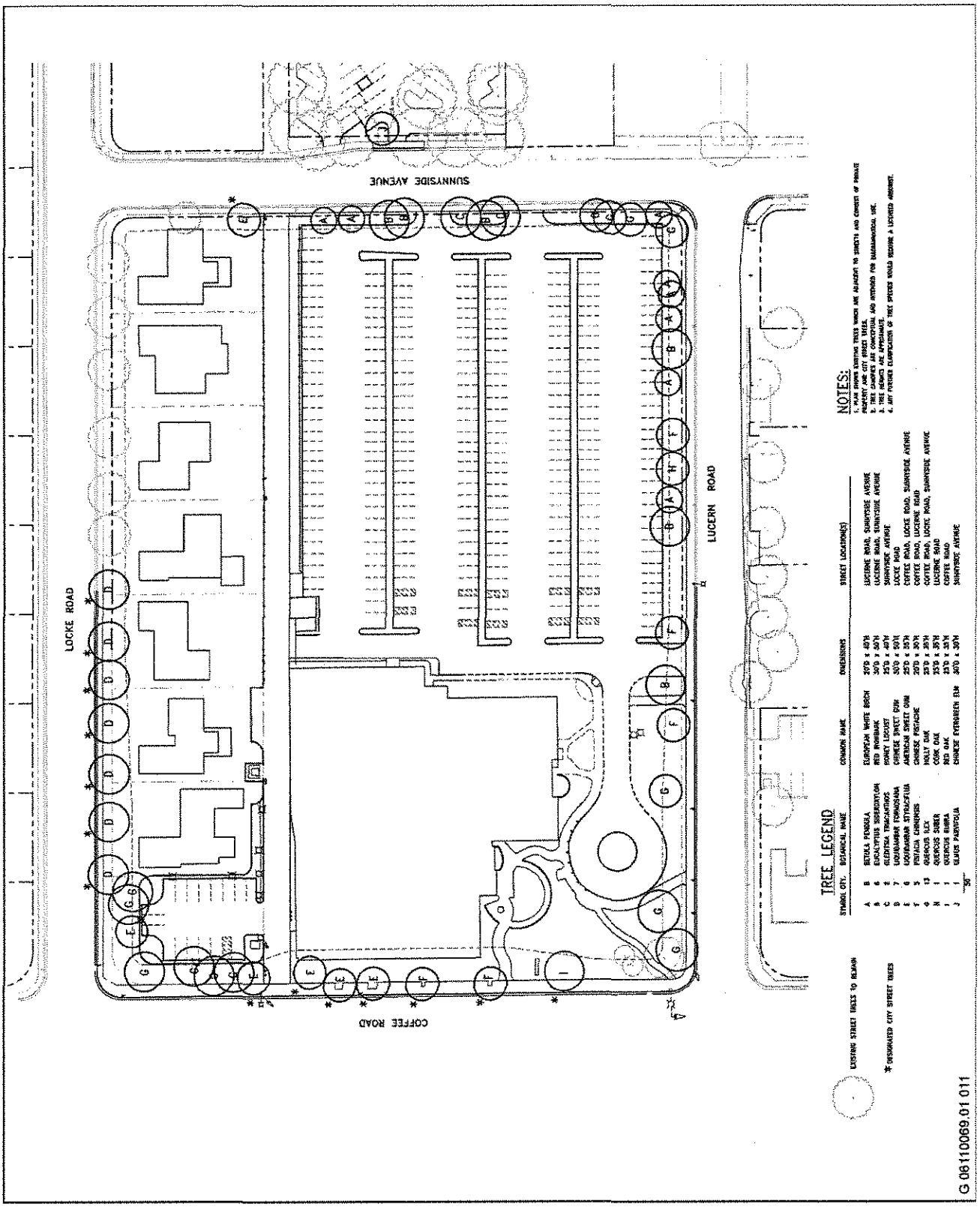
Source: Boulder Associates, Inc. 2006

Elevations of Proposed Building **Exhibit 7**



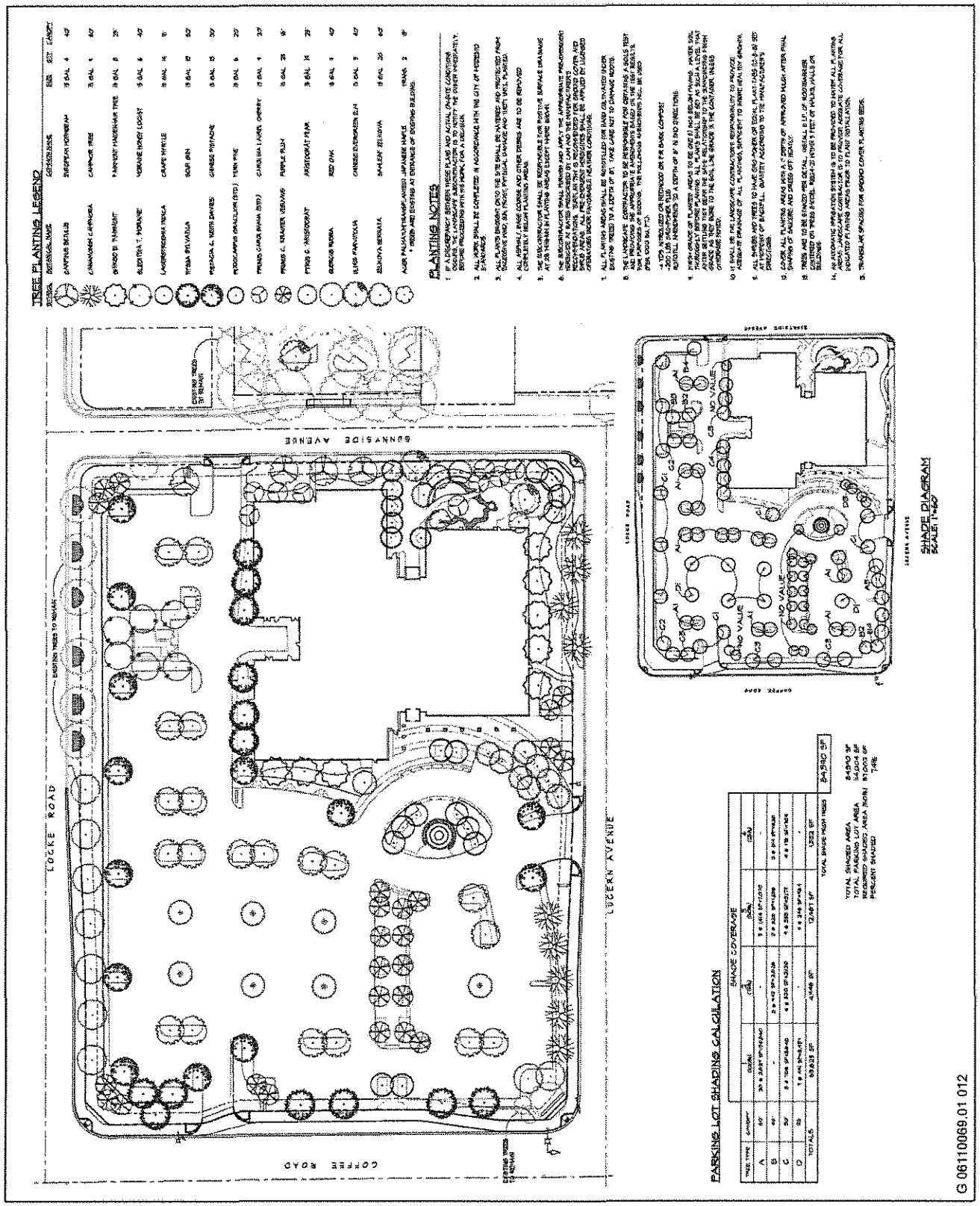
Source: Boulder Associates, Inc. 2006

Elevations of Proposed Building **Exhibit 8**



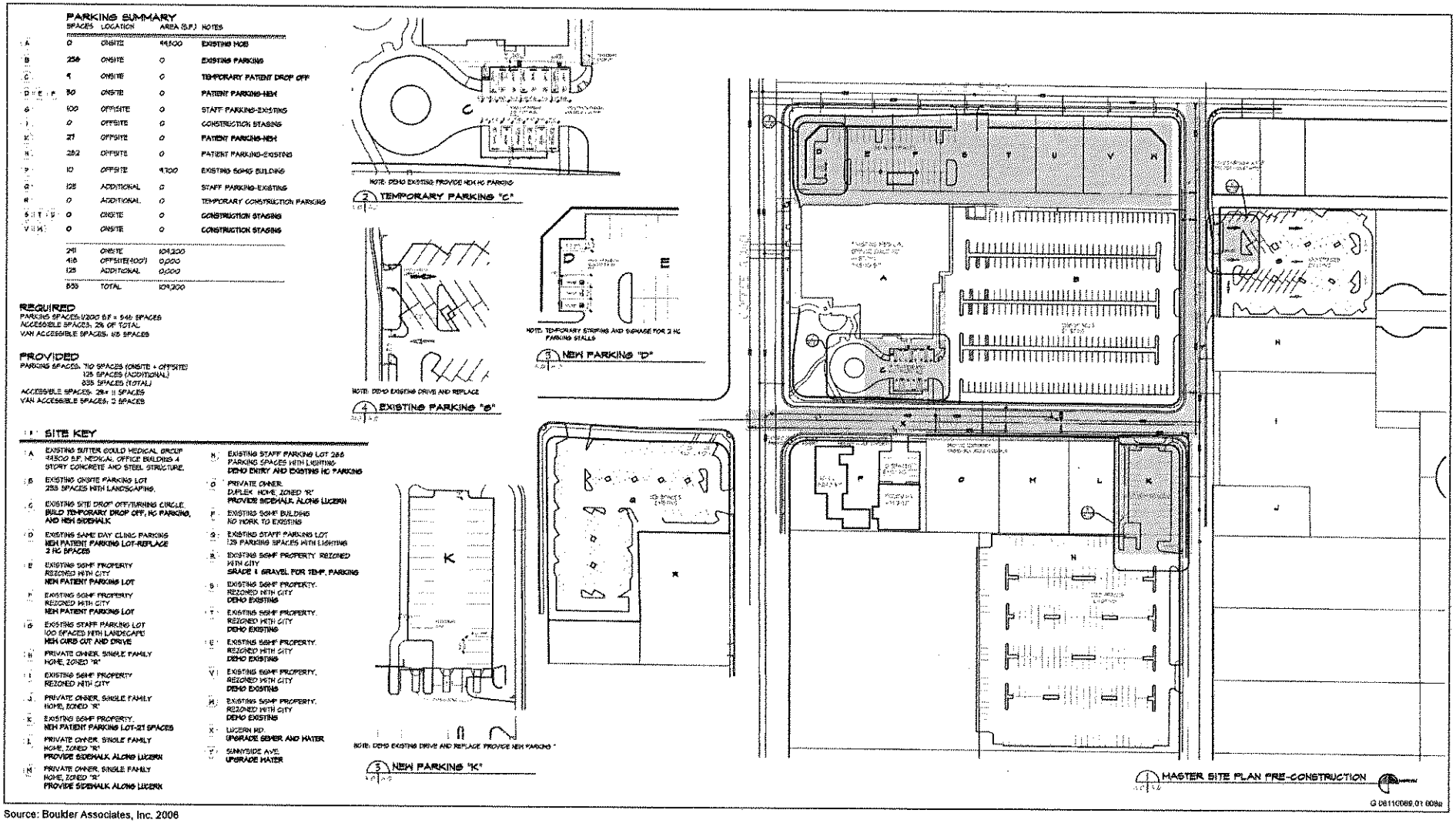
Source: Boulder Associates, Inc. 2006

City Street Tree Replacement Plan **Exhibit 9**



Source: Boulder Associates, Inc. 2006

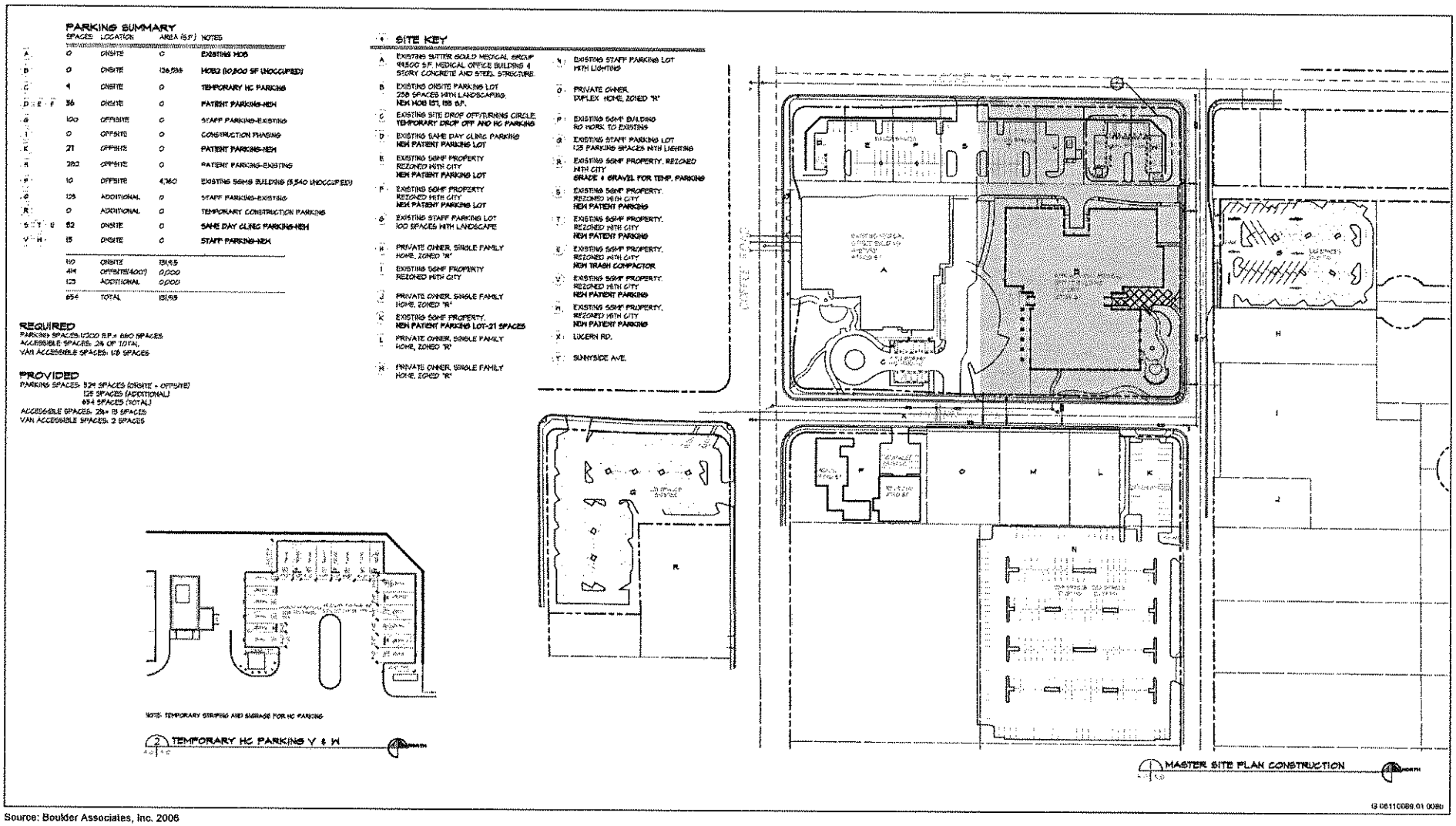
Tree Planting Plan **Exhibit 10**



Source: Boulder Associates, Inc. 2006

Construction Phase 1

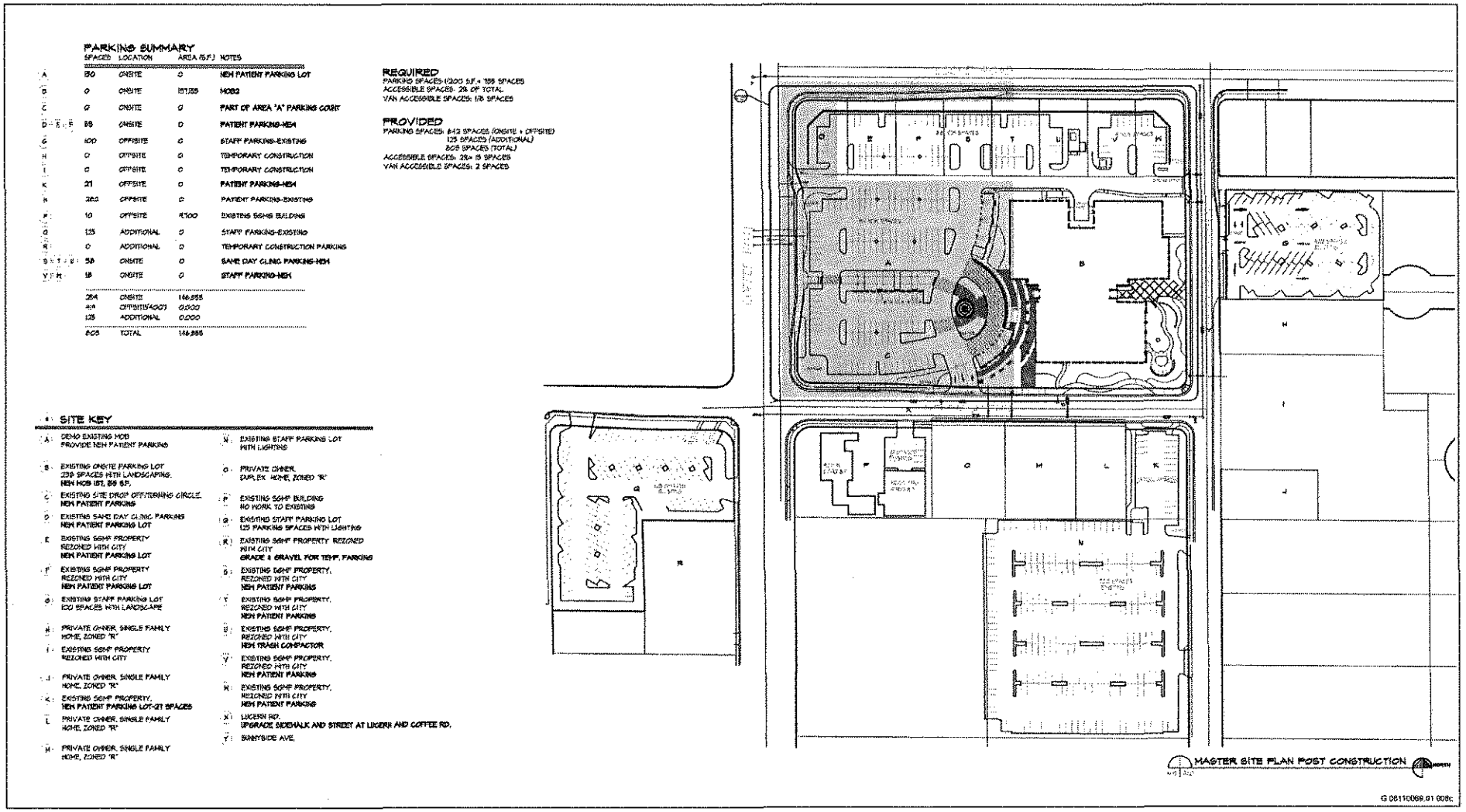
Exhibit 11a



Source: Boulder Associates, Inc. 2006

Construction Phase 2

Exhibit 11b



Source: Boulder Associates, Inc. 2006

Construction Phase 3

Exhibit 11c

IV. ENVIRONMENTAL ANALYSIS

In accordance with Section 21157.1(b) of the Public Resources Code, this section documents that the Sutter Gould Medical Foundation Medical Office Building Expansion and Amendment to Planned Development Zone (P-D [30]) Project is within the scope of the Modesto Urban Area General Plan Final Master Environmental Impact Report (Master EIR) (most recently updated March 2003) and that the project would not result in any project-specific significant effect on the environment that was not examined in the Master EIR. The analysis identifies applicable Master EIR mitigation measures that would be implemented as part of the project and determines that no additional mitigation measures or project alternatives are required. All environmental effects in this Initial Study reflect 2025 build out of the Modesto Urban Area General Plan as identified in the Master EIR.

Project is within the Scope of the Master EIR

Chapter 2, Section C, of the Master EIR, "Anticipated Subsequent Projects," identifies 18 types of projects that are declared to be within the scope of the Master EIR as defined by Public Resources Code 21157.1. Chapter 2, Section C.5, states that, "the City may undertake rezonings at the request of private applicants or on its own initiative for the purpose of implementing the Urban Area General Plan." Chapter III-6, Land Use Polices (a) of the Modesto Urban Area General Plan states that the zoning code and zoning map shall be the primary vehicle to guide future development in the Baseline Developed Area. The project site is within the Baseline Developed Area. The existing medical office building facilities are within an existing planned development zone, P-D (30), which allows for the proposed uses. The medical office building would be relocated within the boundaries of the existing P-D (30) zone. The proposed rezoning of the P-D (30) would change a portion of the R zone, which would be used for surface parking, and incorporate it into the P-D (30) zone for consistency. Parking is allowed in both R and P-D [30]; however, the rezone provides consistency for the entire medical office building facilities within the P-D (30) zone. Therefore, the proposed project rezoning implements the General Plan and it is within the scope of the Master EIR. In addition, Chapter 2, Section C.6, "Miscellaneous Land Use Permits," identifies a variety of City permits that facilitate development. The project would require a building permit from the City before construction could start. The building permit would establish that the project construction must take place in accordance with accepted building codes. Therefore, both the P-D (30) amendment and the construction of a replacement medical office building and associated parking are within the anticipated subsequent projects identified in the Master EIR and are within the declared scope of the Modesto Urban Area General Plan Master EIR.

Consistency Analysis with the Master EIR

The Master EIR impact analysis is organized into 18 resources areas. This Initial Study is organized in the same resource areas to address the project's consistency with each. For cross-reference, the sections are numbered in the same order as Chapter V of the Master EIR. For each resource area, the applicable environmental impacts and associated mitigation measures (if necessary) identified in the Master EIR are listed and an analysis of any potential project-specific effects not identified in the Master EIR is completed. In addition to the 18 subject areas in the Master EIR, this Initial Study addresses land use/planning and aesthetics. These two issues are included to ensure that analysis of all the resources contained in Appendix G of the California Environmental Quality Act (CEQA) Guidelines is completed. The format for the land use/planning and aesthetics sections differs from that of the other 18 resource areas because these were not addressed in the Master EIR. At the end of the consistency analysis, in Section V, a list of all applicable Master EIR mitigation measures required for the project is provided.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

Section V-1 of the Master EIR provides an analysis of the Traffic and Circulation impacts related to development of the Modesto Urban Area General Plan. The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at level of service (LOS) D or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause violation, either individually or cumulatively, of a LOS standard established by the Stanislaus County Congestion Management Program (CMP) for designated roads and highways.

Effect: Creation of need for capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan traffic and circulation policies that are pertinent to this project are found on pages V-1-15 through V-1-20 of the Master EIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific traffic and circulation effect not previously analyzed in the Master EIR. The project would have a new significant traffic and circulation effect if it would:

		YES	NO
(1)	Contribute more than an additional 100 average daily trips (ADT) to adjoining roads and generate more trips than assumed for the General Plan land use category and zoning in the Master EIR. City Engineering & Transportation staff will review the project to determine whether the project contributes more than 100 ADT. Such projects are presumed to generate more trips than assumed by the Master EIR.	☐	☒
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒
(4)	Result in inadequate parking capacity.	☐	☒

Discussion:

(1) The traffic analysis conducted for the proposed project is based on information presented in *Transportation Impact Analysis for the Sutter Gould Medical Center* (TIA) prepared by Fehr and Peers (September 1, 2006). Projected daily traffic volumes, both with and without the proposed project, were compared to daily roadway segment capacities. Volume-to-capacity ratios were calculated for "without project" and "with project" conditions to determine if the proposed project would significantly impact daily roadway segment operations in the vicinity of the project site.

The Master EIR traffic model accounted for employment growth in the project area. Traffic Analysis Zones (TAZ) were used in the model to define land uses and their associated traffic growth per the Modesto Urban Area General Plan. The Traffic Analysis Zones in the vicinity of the project site are 286, 290, and 293. The traffic model identified that these three TAZs would generate approximately 6,500 additional daily trips over the base model. Therefore, sufficient growth was assumed in the Master EIR traffic model to account for more than the 1,610 ADT that would be generated by the project (Table 1), and the replacement medical office building would not generate more trips than assumed by the Master EIR (Fehr and Peers 2006).

Table 1
Project Vehicle Trip Generation Summary

Land Use	Size (sf)	Daily	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Proposed Medical Office Building	144,000	5,200	282	75	357	145	391	536
Existing Medical Office Building	99,500	(3,590)	(195)	(52)	(247)	(100)	(270)	(370)
Net New Trips		***1,610***	***87***	***23***	***110***	***45***	***121***	***166***

1. Trip generation based on average rates for Medical Office Building (Land Use 720) in the Institute of Transportation Engineers' (ITE)

Trip Generation (7th Edition), as presented below.
Daily Rate: T = 36.13 * (X)
AM Rate: T = 2.48 * (X) (inbound = 79 percent, outbound = 21 percent)
PM Rate: T = 3.72 * (X) (inbound = 27 percent, outbound = 73 percent)
Where: T = trip ends, and X = number of thousand square feet.
Source: Institute of Transportation Engineers, and Fehr and Peers 2006.

Level of Service (LOS)

Study Intersections

The following study intersections were selected as those most likely to experience traffic impacts from the proposed project:

1. Coffee Road/Orangeburg Avenue
2. Coffee Road/Locke Road
3. Coffee Road/Lucern Avenue

4. Coffee Road/East Morris Road
5. Coffee Road/Scenic Drive
6. Scenic Drive/Sunnyside Avenue
7. Scenic Drive/Brighton Avenue
8. Scenic Drive/Rose Avenue
9. Locke Road/Rose Avenue

Existing Conditions

Under existing conditions, during the AM and PM peak hour, all of the study intersections operate at an overall acceptable LOS D or better. The side-street movements at three unsignalized intersections currently operate at LOS E or F during both peak hours: Coffee Road/East Morris Road, Scenic Drive/Sunnyside Avenue, and Scenic Drive/Brighton Avenue. Based on the peak hour volume, a traffic signal could be considered at the Coffee Road/Locke Road and Coffee Road/East Morris Road intersections to address current conditions prior to the addition of project traffic (Fehr and Peers 2006).

Near-Term (2011) without Project Conditions

Under near-term conditions (2011) without the project during the AM and PM peak hour, all study intersections are projected to continue operating at an overall acceptable LOS D or better. However, the side-street movement at one additional intersection, Coffee Road/ Locke Road, would degrade to LOS E during the AM peak hour, primarily due to traffic growth on Coffee Road. The side-street movements at the Coffee Road/East Morris Road, Scenic Drive/Sunnyside Avenue, and Scenic Drive/Brighton Avenue are projected to continue operating at a deficient service level during both peak hours. Based on the peak hour volume, a traffic signal could be considered at the Coffee Road/Locke Road and Coffee Road/East Morris Road intersections prior to the addition of project traffic (Fehr and Peers 2006).

Near-Term (2011) with Project Conditions

As shown in Table 2 below, the addition of project traffic would not result in any unacceptable operations at any study intersection, nor would it cause the need to consider a traffic signal at any of the unsignalized intersections. Therefore, project impacts are less than significant in the near-term condition (Fehr and Peers 2006).

Although no project-specific off-site intersection impacts were identified in the near-term condition, the project applicant shall be responsible for payment of the applicable Capital Facilities Fee (CFF) (Fehr and Peers 2006).

Cumulative (2025) without Project Conditions

Daily traffic volume forecasts for the roadways surrounding the project site were calculated based on information contained in the TIA. A comparison of existing daily to PM peak hour traffic on roadways surrounding the project site indicate that in the study area, the PM peak hour volume accounts for approximately 8.5% of daily traffic. The Cumulative PM peak hour turning movement forecasts as presented in the TIA were used to calculate Cumulative Daily roadway segment volumes based on the existing ratio of PM to daily traffic. The resulting traffic volumes under "without project" conditions are shown in Table 3 below.

Table 2
Near-Term (2011) Peak Hour Intersection Levels of Service

Intersection	Traffic Control	Peak Hour	Near-Term Without Project		Near-Term With Project		Significant Impact
			Delay (in seconds)	LOS[2]	Delay (in seconds)	LOS[2]	
1. Coffee Road/ Orangeburg Avenue	Traffic Signal	AM PM	50 53	D D	52 54	D D	No[3] No[3]
2. Coffee Road/ Locke Road	Side-Street Stop[1]	AM PM	3 (38) 1 (29)	A (**E**) A (D)	3 (41) 1 (31)	A (**E**) A (D)	No[4] No[4]
3. Coffee Road/ Lucern Avenue	Traffic Signal	AM PM	11 7	B A	11 8	B A	No[3] No[3]
4. Coffee Road/ East Morris Road	Side-Street Stop[1]	AM PM	7 (>50) 26 (>50)	A (**F**) D (**F**)	10 (>50) 31 (>50)	A (**F**) D (**F**)	No[4] No[4]
5. Coffee Road/ Scenic Drive	Traffic Signal	AM PM	38 37	D D	38 38	D D	No[3] No[3]
6. Scenic Drive/ Sunnyside Avenue	Side-Street Stop[1]	AM PM	1 (>50) 2 (>50)	A (**F**) A (**F**)	1 (>50) 5 (>50)	A (**F**) A (**F**)	No[4] No[4]
7. Scenic Drive/ Brighton Avenue	Side-Street Stop[1]	AM PM	1 (>50) 3 (>50)	A (**F**) A (**F**)	1 (>50) 3 (>50)	A (**F**) A (**F**)	No[4] No[4]
8. Scenic Drive/ Rose Avenue	Traffic Signal	AM PM	28 16	C B	29 17	C B	No[3] No[3]
9. Locke Road/ Rose Avenue	Side-Street Stop[1]	AM PM	3 (18) 3 (15)	A (C) A (C)	3 (19) 3 (16)	A (C) A (C)	No[4] No[4]

1 For side-street stop-controlled intersections, delays for worst movement and average intersection delay are shown as follows: intersection average (worst movement).

2 Intersections operating at unacceptable levels (LOS E/LOS F) are shown in bold.

3 At a signalized intersection, project increases delay by more than 5.0 seconds or increases traffic by more than 5 percent at an intersection operating at LOS E or F.

4 At an unsignalized intersection, project traffic deteriorates a controlled movement to LOS F and volumes meet at least one of the traffic signal warrants.

Fehr & Peers, 2006

Table 3 Cumulative (2025) Daily Roadway Segment Volumes		
Roadway Segment	**Cumulative Without Project**	**Cumulative With Project**
Brighton Avenue, north of Scenic Drive	1,090	1,090
Coffee Road, north of Orangeburg Avenue	34,520	34,990
Coffee Road, between Orangeburg Avenue and Brighton Avenue	32,890	33,510
Coffee Road, between Brighton Avenue and Locke Road	30,310	30,930
Coffee Road, between Locke Road and Lucerne Avenue	29,640	30,220
Coffee Road, between Lucerne Avenue and E. Morris Avenue	28,830	29,570
Coffee Road, between E. Morris Avenue and Scenic Drive	28,970	29,570
E. Morris Avenue, west of Coffee Road	4,490	4,620
E. Orangeburg Avenue, east of Coffee Road	14,730	14,770
E. Orangeburg Avenue, west of Coffee Road	22,770	22,890
Locke Road, east of Coffee Road	2,250	2,300
Locke Road, west of Rose Avenue	2,240	2,420
Lucerne Avenue, east of Coffee Road	3,330	4,360
Lucerne Avenue, west of Coffee Road	5,090	5,180
Rose Avenue, north of Locke Road	8,500	8,650
Rose Avenue, between Scenic Drive and Locke Road	7,930	7,980
Scenic Drive, west of Coffee Road	44,430	44,850
Scenic Drive, between Coffee Road and Sunnyside Avenue	40,630	41,040
Scenic Drive, between Sunnyside Avenue and Brighton Avenue	40,760	41,280
Scenic Drive, between Brighton Avenue and Rose Avenue	41,120	41,640
Scenic Drive, east of Rose Avenue	39,690	40,230
Sunnyside Avenue, north of Scenic Drive	1,040	1,380
Fehr & Peers, 2006		

Roadway Segment Operations

Operation of roadway segments was evaluated by comparing roadway segment volumes to capacities to develop volume-to-capacity (v/c) ratios. The capacity of each roadway segment was based on the type of facility (i.e., expressway, arterial, collector), number of lanes, type of traffic control at the downstream intersection, and maximum per-lane capacities provide in the Modesto General Plan. The Modesto General Plan defines arterials and collectors as major or minor according to the number of travel lanes, design speed, and right-of-way width. Roadway segment capacities remain constant within classes for each roadway facility and do not take into consideration the added capacity of turning lanes at intersections.

All roadway segments would operate at LOS D or better in the cumulative condition without the project. In cumulative conditions with the project, all roadway segments would continue to operate at the same LOS (LOS D or better) and the project would not cause a change in v/c ratio greater than 0.08 (Fehr and Peers 2006).

Intersection Operations

The Coffee Road/Orangeburg Avenue intersection is projected to degrade to an overall LOS E during the PM peak hour and the Scenic Drive/Rose Avenue intersection is projected to degrade to an overall LOS E during the AM peak hour in the cumulative condition without the addition of project traffic. All unsignalized intersections are projected to operate at an overall acceptable service level; although the side-street movements at the following intersections would operate at an unacceptable service level during both peak hours:

- Coffee Road/Locke Road
- Coffee Road/East Morris Road
- Scenic Drive/Sunnyside Avenue
- Scenic Drive/Brighton Avenue

Based on the peak hour volume, a traffic signal could be considered at the Coffee Road/Locke Road and Coffee Road/East Morris Road intersections under the cumulative condition without the project (Fehr and Peers, 2006).

Cumulative (2025) with Project Conditions

The addition of project traffic, indicated in Table 3, above, would not result in unacceptable operations along any study roadway segments, nor would it increase a v/c ratio by more than 0.08 along any roadway segment. In addition, the addition of project traffic would not result in unacceptable operations at any of the signalized study intersections, nor would it increase delay by more than five seconds at any signalized intersection projected to operate at an unacceptable service level prior to the addition of project traffic (Fehr and Peers, 2006).

Cumulative Traffic Impact 1: The addition of project traffic to the cumulative (2025) condition would result in an overall LOS E at the Coffee Road/East Morris Road intersection. This is potentially significant as the addition of project traffic degrades the

overall operation of an intersection projected to operate at an acceptable service level prior to the addition of project traffic. However, the Master EIR (Section V-1) addressed the General Plan increase in traffic on roadway segments operating at LOS D or worse and determined the impact to be significant and unavoidable. The Master EIR (Section V-1) also addressed possible violations of a LOS standard established by the Stanislaus County Congestion Management Program and also found that General Plan growth would result in a significant and unavoidable impact.

Due to the close spacing of the East Morris Road/Coffee Road intersection with the currently signalized Lucern Avenue/Coffee Road intersection, signalization of the East Morris Road/Coffee Road intersection is not recommended. Connections to Lucern Avenue and Scenic Drive can be made from East Morris Road, where signalized left-turn access to Coffee Road is provided. Therefore, because alternative access to Coffee Road is available, this impact is considered less than significant and no improvements are recommended. The project applicant shall be responsible for payment of the applicable Capital Facilities Fee (CFF) (Fehr and Peers, 2006).

Cumulative Traffic Impact 2: The addition of project traffic would degrade the westbound controlled movement at the Locke Road/Coffee Road intersection from LOS E to LOS F. Peak hour volume traffic signal warrants would be satisfied prior to the addition of project traffic. This is a potentially significant impact. However, the Master EIR (Section V-1) addressed the General Plan increase in traffic on roadway segments operating at LOS D or worse and determined the impact to be significant and unavoidable. The Master EIR (Section V-1) also addressed possible violations of a LOS standard established by the Stanislaus County Congestion Management Program and also found that General Plan growth would result in a significant and unavoidable impact.

Due to the close spacing of the Locke Road/Coffee Road intersection with the currently signalized Lucern Avenue/Coffee Road intersection, signalization of the Locke Road/Coffee Road intersection is not recommended. Connections to Lucern Avenue and Scenic Drive via Sunnyside Avenue can be made from Locke Road, where signalized access to Coffee Road is provided. Therefore, as alternative access to Coffee Road is available, this impact is considered less than significant and no improvements are recommended. The project applicant shall be responsible for payment of the applicable Capital Facilities Fee (CFF) (Fehr and Peers, 2006).

(2) Vehicle Access and On-site Circulation

The new main parking area adjacent to the replacement medical office building would provide 260 parking spaces, which would be designated for patient/visitor use. Vehicle access to the current parking area is provided by three driveways: two on Sunnyside Avenue, and one on Lucern Avenue. With the expansion of the medical office building and reconfiguration of the site, an existing driveway on Sunnyside Avenue would be eliminated and a new driveway would be constructed on Coffee Road at the existing alley, approximately 150 feet south of Locke Road. This meets the minimum spacing for driveways on minor collector roadways. This driveway would be restricted to right-in/right-out operation, through signage and striping, due to the through volumes on Coffee Road and the proximity of the Locke Road/Coffee Road intersection. The remaining driveway on Sunnyside Avenue would be relocated to the existing alley intersection and would act as a service entry. The existing driveway on Lucern Avenue would remain, although it would be modified to provide improved access. Adequate

clearance would be provided at all the driveways serving the main parking area to prevent vehicles from stacking up on the property and out onto the public streets. Vehicular circulation through the main parking area would not result in misaligned or dead-end drive aisles. The designated patient drop-off area would be located on the western side of the replacement medical center within the main parking lot. This includes a circular drive aisle around a fountain plaza. To reduce conflicts, this would be striped for one-way vehicle traffic. In addition, sufficient width to accommodate two vehicles would be provided.

Access to the northern employee parking lot located on the east side of Sunnyside Avenue would be modified to eliminate an existing driveway and reconfigure the parking layout for greater efficiency. Angled parking is currently provided in this area with one-way circulation. Signage and pavement markings would be installed to indicate the travel way.

A new parking area is proposed for the east side of Sunnyside Avenue, containing 135 parking spaces. Access to this parking area is proposed from two driveways, one off-set to the north side of Lucern Avenue, proposed to be exit only, and one off-set to the south side of Lucern Avenue, proposed to be entry only. This off-set would preserve an existing oak tree that would need to be removed should access be aligned with Lucern Avenue. This configuration would operate acceptably due to low traffic volumes on Sunnyside Avenue.

The existing parking lots at the southwest corner of Lucern Avenue/Sunnyside Avenue, on the south side of Lucern Avenue, and at the southwest corner of the Lucern Avenue/Coffee Road intersection would remain unchanged from their current configurations, which operate acceptably.

Pedestrian, Bicycle, and Transit Access

The project proposes to construct a bus pullout on the east side of Coffee Road, connecting to a pedestrian path that connects Coffee Road to the main entry of the replacement medical office building. This bus pullout would serve passengers on northbound buses. Southbound buses would continue to stop at the northwest corner of the Coffee Road/Lucern Avenue intersection. Crosswalks are provided on all legs of this intersection to facilitate pedestrian crossings from the southbound bus stop to the medical center. The transportation consultant recommends that a bus shelter and other transit amenities be provided at the new pullout to make transit usage a more appealing form of transportation to the medical office building (Fehr and Peers, 2006).

Bicyclists traveling to the medical office building can use either the Class II bike lanes on Coffee Road or the Class III bike route on Lucern Avenue to access the site. The proposed project is consistent with the City's Non-Motorized Transportation Plan. The proposed project would not disrupt any existing bicycle facilities nor would any proposed bicycle facilities be precluded with construction of the proposed project.

Sidewalks currently exist along all of the streets adjacent to the project site. The project proposes to provide pedestrian walkways along the Coffee Road, Lucern Avenue, and Sunnyside Avenue project frontages, with connections from Coffee Road through the parking lot to the patient drop-off area and main patient entry; and from Lucern Avenue and Sunnyside Avenue from the employee parking areas to the employee entrance.

Pedestrian crossing enhancements, such as directional curb ramps and crosswalks, would be provided at the Lucern Avenue/Sunnyside Avenue intersection.

The project would not substantially increase hazards or incompatible uses for vehicle, pedestrian, bicycle, or transit access.

(3) As described under (2), above, the project would provide adequate and safe vehicular, pedestrian, bicycle, and transit access to/from the replacement medical office building and the associated parking lots (Fehr and Peers, 2006). Sufficient access and parking would be maintained through all phases of construction. Therefore, the project would not result in inadequate emergency access.

(4) Construction Period Parking

Based on the size of the existing and proposed medical office building and Institute of Transportation Engineers (2004) peak parking demand rates, the proposed parking supply during each construction phase would satisfy peak parking demands, and would actually provide surplus parking, as shown on Table 4.

Table 4
Construction Period Parking Demand Analysis

Phase	Size (square feet [sf])	85th Percentile Peak Parking Demand Rate[1]	Peak Demand Parking	Proposed Supply	Surplus
Phase I	99,500 sf	4.30	428	755	327
Phase II	99,500 sf	4.30	428	554	126
Phase III	144,000 sf	4.30	619	651	32

[1] Per 1,000 sf gross floor area. 85th Percentile parking demand rate was selected to provide a conservative assessment of potential parking demand.

Source: *Parking Generation* (3rd Edition) (Institute of Transportation Engineers, 2004), and Fehr and Peers, 2006

Operational Parking

The project would result in a total of 938 parking spaces for the replacement medical office building, as shown in Exhibit 5. This proposed parking supply was compared to both City Code parking requirements and Institute of Transportation Engineers parking demand rates, as explained below.

The City of Modesto requires one space for every 200 sf of medical office building. As shown in Table 5, based on this requirement, the project must provide 720 parking spaces. The proposed supply is 208 spaces greater than the City Code requirement (Fehr and Peers, 2006).

Table 5
City of Modesto Code Automobile Parking Requirements

Land Use	Size	Parking Code Requirement	Parking Spaces Required
Medical Office Building	144,000 sf	1/200 sf	720
		Total Provided	938
		Surplus	218

Source: City of Modesto Municipal Code 10-2.2002, and Fehr and Peers, 2006

Parking demand rates as presented in Institute of Transportation Engineers Parking Generation (3rd Edition), as shown on Table 6, were used to estimate peak parking demands for the project. Weekday parking demand rates were selected, as opposed to weekend rates when medical office building parking demand is minimal. Based on this assessment, a peak parking demand of 619 parking spaces can be expected at project buildout. This demand would be accommodated by the proposed supply of 938 parking spaces. Because this would result in a surplus of 319 spaces, the new 135-space parking lot on the eastside of Sunnyside Avenue would not be needed to satisfy City Code requirements or accommodate anticipated peak parking demands based on Institute of Transportation Engineers rates (Fehr and Peers, 2006).

Table 6
Weekday Parking Demand Analysis

Land Use	Size	85th Percentile Peak Parking Demand Rate[1]	Peak Parking Demand	Proposed Supply	Surplus
Medical Office	144,000 sf	4.30	619	938	319

[1] Per 1,000 sf gross floor area. 85th Percentile parking demand rate was selected to provide a conservative assessment of potential project demand.

Source: Parking Generation (3rd Edition) (Institute of Transportation Engineers, 2004), and Fehr & Peers, 2006.

Americans with Disabilities Act (ADA) Accessible Parking

Based on City Code requirements, two percent of the total parking supply (equal to 18 spaces) must be ADA accessible spaces. One in eight ADA accessible spaces (equal to two spaces) should also be van accessible. The site plan (Exhibit 5) shows 18 ADA accessible spaces, two of which are for vans. Ten of these (including the two van spaces) are located west of the replacement medical office building near the patient drop-off, four are located in the parking aisle to the west of the drop-off area, and four are located in the employee lot on the southwest corner of the Coffee Road/Lucern Avenue intersection.

All ADA accessible spaces in the main parking lot have direct access to pedestrian ramps and walkways to the medical center. However, the transportation consultant recommends that the four ADA accessible spaces on the southwest corner of the Coffee Road/Lucern Avenue be relocated to the main parking area, adjacent to the medical office building, so that handicapped patients are not required to cross the Coffee Road/Lucern Avenue intersection to access the medical office building (Fehr and Peers, 2006).

Bicycle Parking

Although no formal bicycle parking requirement exists, the transportation consultant recommends that short term bicycle parking (i.e., bicycle racks) be provided near the main building entrance and the employee entrance, and long-term bicycle parking (i.e., a covered, secure parking area) be provided either in the building or in a parking lot to accommodate cyclists and encourage use of alternative modes (Fehr and Peers, 2006).

The Modesto Urban Area General Plan policies V-5 5.B and V-6 5.C encourage measures that support alternative modes of transportation, and the installation of bicycle parking would be consistent with these General Plan policies.

The project would not result in any new significant traffic or circulation effects and no new mitigation measures or alternatives are required for the project.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

Section V-2 of the Master EIR provides analysis of Air Quality impacts resulting from development projects envisioned in the Modesto Urban Area General Plan. The Master EIR identified the following significant and unavoidable environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased reactive organic gases (ROG) and oxides of nitrogen (NO_X) levels in the project area. This is a significant and unavoidable impact.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan air quality policies pertinent to this project are found on pages V-2-11 through V-2-18 of the Master EIR. In addition, construction-related air quality impacts would be less than significant with implementation of Master EIR Mitigation Measures Air-1 and Air-2 (pages V-2-24 through V-2-25 of the Master EIR). The applicable Master EIR measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific air quality effect not previously analyzed in the Master EIR. The project would have a new significant air quality effect if it would:

		YES	NO
(1)	Exceed the emissions thresholds established for CO and NO_X by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	☒
(2)	Not incorporate the best management practices (BMPs) for suspended particulate matter (PM_{10}) reduction established by the SJVUAPCD.	☐	☒
(3)	Not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	☒
(4)	Expose sensitive receptors to substantial pollutant concentrations.	☐	☒
(5)	Create objectionable odors affecting a substantial number of people.	☐	☒

Discussion:

(1, 3) The project site is located in San Joaquin Valley and in the jurisdiction of the SJVUAPCD, which administers local, state, and federal air quality management programs for San Joaquin Valley. The SJVUAPCD is in nonattainment for federal and state carbon monoxide (CO) standards and federal and state standards for particulate matter less than 10 microns in diameter (PM_{10}).

As is typical of construction projects, movement of equipment and wind over bare soils could generate airbourne dust. Construction equipment would emit exhaust, including ozone precursors, particulate matter, and air toxics. In addition, although the project results in only a minor increase in visitors and would take advantage of transit and bicycle lanes on Coffee Road, the project is expected to result in 1,610 additional daily vehicle trips (see Table 1, in Section IV.1).

One of the primary reasons for air quality regulations and standards is the protection of those members of the population who are the most sensitive to adverse health effects of air pollution, or "sensitive receptors." The term "sensitive receptors" refers both to specific population groups and to the land uses where they would be located for long periods. Commonly identified sensitive population groups include children, the elderly, the acutely ill, and the chronically ill. Commonly identified sensitive land uses include residences, schools, playgrounds, child care centers, retirement or convalescent homes, hospitals, and clinics.

The project site is an existing medical office building. Nearby sensitive receptors include adjacent residential housing and the John Muir School. The project would result in short-term and long-term increases in mobile, stationary, and area source emissions.

Short-term Construction-Generated Emissions

Emissions produced during site preparation and construction are "short-term" because they occur only during the construction phase. Dust generation is normally the primary concern during demolition and initial site preparation. Because such emissions are not amenable to collection and discharge through a controlled source, they are called "fugitive emissions." Fugitive dust emissions typically include emissions from on-site grading and excavation activities and from off-site truck and passenger car travel on unpaved roadways. Fugitive dust emission rates are affected by a variety of factors, including amount and type of exposed soil, amount of soil moisture, wind speed, number of vehicles and pieces of equipment operating at one time, depth of disturbance or excavation, and the number of vehicle miles traveled. Fugitive dust emissions are measured as PM_{10}. Emissions of reactive organic gases (ROG) and nitrogen oxides (NO_X) are generated primarily by the operation of gasoline- and diesel-powered motor vehicles. Construction-generated emissions vary from day to day, depending on the specific activities being conducted, the type of equipment, duration of equipment use, and the number of transport trips for construction workers and material.

Actual pollutant concentrations depend on various factors, including the location and type of activities performed, meteorological conditions, distances to nearby receptors, and the effectiveness of the mitigation measures employed. As shown in Table 7 below, the short-term construction generated emissions have been modeled based on the proposed demolition of the existing medical office building and single family houses on Locke Road, the site grading, and the construction of the new medical office building

and associated parking and site improvements. The short-term construction generated emissions for ROG, NO_X, and PM_{10} would be less than the SJVUAPCD's established significance threshold of 10 tons/year and would not pose a significant effect on sensitive receptors or contribute to air quality violations. Nonetheless, per SJVUAPCD Rule 9510, Indirect Source Review (ISR), the applicant must reduce exhaust emissions for construction equipment greater than 50 horsepower by achieving a project-wide fleet average 20 percent NO_X reduction and 45 percent PM_{10} reduction compared to the most recent Air Resources Board (ARB) fleet average. This requirement can be met through a combination of on-site emission reduction measures or payment of off-site fees.

Table 7
Summary of Modeled Short-Term Construction-Generated Emissions

Source	Emissions (tons/year)[1]		
	ROG	NO_X	PM_{10}
Fugitive Dust	-	-	0.9
Off-Road Diesel	0.5	3.6	0.2
On-Road Diesel	<.1	<.1	-
Worker Trips	<.1	<.1	-
Total Unmitigated	0.5	3.6	1.1
Indirect Source Rule Reductions	No ISR requirement	2.9	0.6
SJVAPCD Significance Threshold:	10	10	–

[1] Emissions (from demolition, site grading, and building) modeled using the Urbemis2002 (v8.7) computer model and represent worst-case yearly conditions.
Source: Data modeled by EDAW 2006.

Long-term Operational Emissions

No stationary source emissions are anticipated from operation of the medical office building. Therefore, long-term increases in regional emissions of criteria pollutants would be associated primarily with motor vehicle trips following completion of the replacement medical office building. "Criteria" pollutants are those pollutants (or their precursors) for which the U.S. Environmental Protection Agency (EPA) has established national ambient air quality standards (NAAQS). California has established its own ambient air quality standards, which are at least as stringent as the NAAQS. Although the proposed project includes various elements designed to reduce mobile source emissions (e.g., located along a transit line and Class II bike lane, and proposing an improved bus turn-out), implementation of the proposed project would result in the generation of mobile source emissions, including ROG and NO_X, which are both precursors to ozone.

As shown in Table 8 below, the long-term operational emissions have been modeled based on the increase in vehicle trips associated with the replacement medical office building (see Table 1 in Section IV.1). The long-term operational emissions for ROG, NO_X, and PM_{10} would be less than SJVUAPCD's established significance threshold of 10 tons/year and would not pose a significant effect on sensitive receptors or contribute to air quality violations. Nonetheless, per the Indirect Source Rule (ISR), the applicant shall reduce the project's operational baseline NO_X emissions by 33.3 percent and PM_{10}

emissions by 50 percent. This requirement can be met through a combination of on-site emission reduction measures or payment of off-site fees.

Table 8
Summary of Modeled Net Increase in Long-Term Operational Emissions

Source	Emissions (tons/year)[1]		
	ROG	NO_X	PM_{10}
Area Source	0.2	0.2	0
Mobile Source	2.1	2.4	1.1
Total Unmitigated	2.3	2.6	1.1
Indirect Source Rule Reductions	No ISR requirement	1.7	0.6
SJVAPCD Significance Threshold:	10	10	–

[1] Emissions modeled using the Urbemis2002 (v8.7) computer model, based on the net increase in daily trips and 2009 conditions.

Source: Data modeled by EDAW 2006.

Carbon monoxide (CO) concentration is a direct function of vehicle idling time and, thus, traffic flow conditions. Under specific meteorological conditions, CO concentrations near congested roadways and/or intersections may reach unhealthy levels with respect to local sensitive land-uses such as residential areas, schools, and hospitals. As a result, the SJVAPCD recommends analysis of CO emissions at a local rather than a regional level.

The Transportation Project-Level Carbon Monoxide Protocol (Garza et al. 1997) states that signalized intersections at level of service (LOS) E or F represent a potential for a CO violation, also known as a "hot spot." Thus, modeling of CO concentrations is typically recommended for receptors located near signalized roadway intersections that are projected to operate at LOS E or F.

According to the traffic analysis prepared for the proposed project (Fehr and Peers 2006), during the AM and PM peak hour under near-term conditions (2011), all signalized study intersections are projected to continue operating at an overall acceptable LOS D or better. Further, under near-term conditions, the addition of project traffic would not result in unacceptable operations at any unsignalized study intersection projected to operate at acceptable levels without the project, nor does it cause the need to consider traffic signals at any of the unsignalized intersections.

Thus, the proposed project is not anticipated to result in or contribute to local CO concentrations that exceed the California 1-hour or 8-hour ambient air quality standards of 20 parts per million (ppm) or 9 ppm, respectively. As a result, the impact of long-term operational emissions of local CO associated with the proposed project is considered less than significant.

(2) The project would incorporate the best management practices (BMPs) for the reduction of suspended PM_{10} established by the SJVUAPCD PM_{10} Control Measure Candidate List. Applicable measures are described in Section V of this document under AQ-18, New Master EIR Mitigation Measure Air-1: PM_{10} Control Measures. In addition, per the Indirect Source Rule (ISR), the applicant shall reduce the project's operational baseline

NO_X emissions by 33.3 percent and PM_{10} emissions by 50 percent. This requirement can be met through a combination of on-site emission reduction measures or payment of off-site fees.

(4) Construction of the proposed project would result in short-term diesel exhaust emissions from on-site heavy duty equipment. Particulate exhaust emissions from diesel-fueled engines (diesel PM) were identified as a toxic air contaminant (TAC) by the ARB in 1998. Construction of the project would result in the generation of diesel PM emissions from the use of off-road diesel equipment required for demolition, site grading and excavation, and other construction activities. According to the ARB, the potential cancer risk from the inhalation of diesel PM, as discussed below, outweighs the potential non-cancer health impacts. The dose to which receptors are exposed (a function of concentration and duration of exposure) is the primary factor used to determine health risk (i.e., potential exposure to TAC emission levels that exceed applicable standards). Dose is positively correlated with time, meaning that a longer exposure period would result in a higher exposure level for the maximally exposed individual. Thus, the risks estimated for a maximally exposed individual are higher if a fixed exposure occurs over a longer period of time.

According to the Office of Environmental Health Hazard Assessment (OEHHA), health risk assessments, which determine the exposure of sensitive receptors to TAC emissions, should be based on a 70-year exposure period; however, such assessments should be limited to the period/duration of activities associated with the project (Salinas, pers. comm., 2004). Thus, because the use of mobilized equipment would be temporary in combination with the dispersive properties of diesel PM (Zhu and Hinds 2002), and the fact that the project would only require the use of a few pieces of equipment and not involve atypical construction activities (e.g., large amount of soil import/export with heavy-duty trucks, deep excavation), short-term construction activities would not expose sensitive receptors to substantial pollutant concentrations.

Before any demolition or renovation activities occur, SJVUAPCD Rule 4002, which is based on the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for asbestos, requires that a thorough inspection for asbestos be conducted before any facility is demolished or renovated (SJVUAPCD 2006). Asbestos Inspection Reports (Bovee Environmental Management, Inc., 2005 and 2006) for the existing Sutter Gould medical office building as well as six houses located on the northern boundary of the project site on Locke Road identified the presence of asbestos-containing building materials. Asbestos poses health hazards only when inhaled; therefore, friable (easily crumbled) asbestos is potentially hazardous if not encapsulated. Non-friable asbestos or encapsulated asbestos does not pose substantial health risks. During building demolition, asbestos fibers could be disturbed, released into the air, and inhaled by construction workers or the public unless proper precautions are taken. In addition, given the age of the structures (approximately 50 years old), there is a likelihood that lead-based paint may be present on-site as well, which could also become friable when the buildings are demolished. The Asbestos Inspection Reports (Bovee Environmental Management, Inc., 2005 and 2006) are available for review at the City of Modesto Community and Economic Development Planning Division.

Sutter Gould shall coordinate with all appropriate agencies, including the Stanislaus County Department of Environmental Resources Hazardous Materials Division (Stanislaus County HMD), the Central Valley Regional Water Quality Control Board (Central Valley RWQCB), the SJVUAPCD, Department of Toxic Substances Control

(DTSC), the EPA, California Occupational Safety and Health Administration (Cal/OSHA), and any other applicable federal, State, or local regulatory agencies, regarding appropriate methods to address asbestos and lead-based materials during demolition of the medical office building and single family houses. Methods for containment/removal of asbestos- and lead-containing materials would follow all regulatory standards. All contaminated asbestos- and lead-containing materials removed from the project site shall be disposed of in a manner consistent with applicable regulations at an appropriate off-site disposal facility. This would ensure that no improper handling of asbestos would occur and, thus, no receptors would be exposed to asbestos.

(5) The occurrence and severity of odor impacts depend on numerous factors, including the nature, frequency, and intensity of the source, wind speed and direction, and the sensitivity of the receptors. Although offensive odors rarely cause any physical harm, they can still lead to considerable distress among the public and often generate citizen complaints to local governments and regulatory agencies.

Construction activities for the project could potentially include the application of architectural coatings and asphalt paving materials that could generate localized temporary odors. The use of diesel-powered construction equipment could also generate localized temporary odors. However, no heavy industrial features, wastewater treatment facilities, or other large odor emitters are proposed. Therefore, the project would not be expected to create objectionable odors affecting a substantial number of people.

The project would not result in any new air quality effects and no new mitigation measures or alternatives are required for the project.

3. NOISE

a. Significant Effects Identified in the Master EIR

Section V-3 of the Master EIR provides analysis of noise impacts associated with development of the General Plan. The Master EIR identified the following significant and unavoidable noise impacts:

Effect: Traffic noise levels under future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 Master EIR).

Effect: Projected future traffic noise levels, based on increased vehicular traffic anticipated in the Modesto Urban Area General Plan, will exceed the City's General Plan and noise ordinance standards.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan Noise policies pertinent to this project are found on pages V-3-11 through V-3-15 of the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-level noise effect not previously analyzed in the Master EIR. The project would have a new significant noise effect if it would:

		YES	NO
(1)	Exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☒
(2)	Exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(3)	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒
(4)	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	☒

Discussion:

(1-4) Implementation of the proposed project would introduce temporary and permanent noise sources to the project area, including construction equipment, stationary sources, and increased traffic.

Short-term Noise

Depending on the activities being performed, as well as the duration and hours during which construction activity would occur, noise associated with demolition and construction activities could result in a temporary substantial increase in average daily ambient noise levels at on-site and nearby noise-sensitive receptors. The City of Modesto Noise Policy (N-5) limits the loud and raucous operation of equipment or any construction, demolition, excavation, erection, alteration, or repair activity to the hours between 7:00 AM and 9:00 PM on weekdays or between 9:00 AM and 9:00 PM on Saturday, Sunday, and State or federal holidays. All project construction activities will be restricted to these daytime hours. Further, because construction activities will not include pile driving or blasting, the proposed project is not expected to generate substantial amounts of groundborne vibration.

Long-term Operational Noise

Operational noise generated by the project would predominantly consist of traffic noise on area streets associated with vehicle trips generated by operation of the replacement medical office building. Long-term operation of the new facility would result in approximately 1,610 daily additional vehicle trips distributed on the local roadway system. Typically, traffic volumes have to double before there is an associated increase in noise levels that is considered noticeable (i.e., three A-weighted decibels or greater). However, as shown in Table 9, the addition of project-related daily trips on the local roadway system would be minor in comparison to existing, near-term, and cumulative volumes. None of the traffic volumes on local roadways, including Coffee Road, Locke

Road, Sunnyside Avenue, or Lucern Avenue, would double. Consequently, operation of the project would not result in a noticeable change in the traffic noise contours of area roadways.

Table 9
Daily Traffic Volumes

Segment	Existing	Near-term		Cumulative	
		Without Project	With Project	Without Project	With Project
E Orangeburg west of Coffee	18,230	19,690	19,800	22,770	22,890
E Orangeburg, east of Coffee	12,150	12,730	12,770	14,730	14,770
Coffee, south of Orangeburg	25,460	28,570	29,190	32,890	33,510
Coffee, north of Orangeburg	26,960	29,990	30,460	34,520	34,990
Coffee, south of Locke (b/t Int 2 & 3)	22,800	25,770	26,350	29,640	30,220
Coffee, north of Locke	23,360	26,360	26,980	30,310	30,930
Locke, east of Coffee	1,850	1,960	2,000	2,250	2,300
Coffee, south of Lucern (b/t Int 3 & 4)	22,150	25,090	25,830	28,830	29,570
Lucern, west of Coffee	4,170	4,380	4,480	5,090	5,180
Lucern, east of Coffee	2,750	2,890	3,910	3,330	4,360
Coffee, south of E Morris (b/t Int 4 & 5)	22,260	25,200	25,800	28,970	29,570
E Morris, west of Coffee	3,690	3,880	4,000	4,490	4,620
Scenic, west of Coffee	34,880	38,490	38,910	44,430	44,850
Scenic, east of Coffee (b/t Int. 5 & 6)	32,450	35,120	35,530	40,630	41,040
Scenic, east of Sunnyside (b/t Int 6 & 7)	32,530	35,230	35,750	40,760	41,280
Sunnyside, north of Scenic	850	900	1,240	1,040	1,380
Brighton, north of Scenic	900	960	960	1,090	1,090
Scenic, west of Rose (b/t Int. 7 & 8)	32,850	35,560	36,080	14,120	41,640
Scenic, east of Rose	31,6680	34,310	34,850	39,690	40,230
Rose, north of Scenic (b/t Int. 8 & 9)	6,510	6,840	6,880	7,930	7,980
Locke, west of Rose	1,840	1,930	2,110	2,240	2,420
Rose, north of Locke	6,960	7,310	7,460	8,500	8,650

Source: Fehr and Peers 2006

The other operational noise source associated with the replacement medical office building that may affect the houses along Locke Road and other surrounding residences

would be parking lot activity. Noise associated with parking lot activity typically consists of occasional slamming doors, car radios, and car alarms. The applicant has proposed to construct a masonry wall and landscaping around the parking area adjacent to Locke Road that would serve to buffer this parking area from the neighboring residences. Because the facility would operate during less-sensitive daylight hours and because a wall and landscaping would provide a buffer, noise generated by parking lot activity is not expected to impact nearby sensitive receptors.

Thus, the project would not result in any new noise effects and no new mitigation measures or alternatives are required for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

Section V-4 of the Master EIR provides analysis of impacts to Agricultural Lands resulting from development projects envisioned in the General Plan. The Master EIR identified the following environmental impacts related to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

b. Master EIR Measures Pertinent to the Project

Modesto Urban Area General Plan agricultural land policies pertinent to the project are found on pages V-4-4 through V-4-8 in the Master EIR. The project site is in an area identified as an urbanized area by the California Department of Conservation and identified as Baseline Developed Area, as shown on Figure V-4-1 of the Master EIR. Policy AL-17 (Master EIR, page V-4-7, General Plan Chapter VII, Section D.2) states that if a subsequent project is within the Baseline Developed Area, the project is considered to have a minimal effect on the conversion of agricultural land and no mitigation is required.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific agricultural effect not previously analyzed in the Master EIR. The project would have a new significant agricultural lands effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Directly result in the development of land outside the March 2003 planning area boundaries.	☐	☒

		YES	NO
(3)	Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	☒
(4)	Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use.	☐	☒

Discussion:

(1-5) The Modesto Urban Area General Plan designates the site as mixed use (MU) and residential (R) and the site is designated as an urbanized area by the California Department of Conservation. The site is also identified as Baseline Developed Area, as shown on Figure V-4-1 of the Master EIR. The site is currently developed with a medical office building, surface parking lots and single family houses. Construction of the proposed project would result in redevelopment of the existing urban use on the project site. There are no agricultural operations on the project site and there are no Williamson Act contracts on the project site. Therefore, the project would not result in conversion of farmland, conflict with agricultural zoning or Williamson Act contracts, nor result in other changes that could result in conversion or impacts to agriculture operations.

The project would not result in any new significant agricultural effects and no new mitigation measures or alternatives are required for the project.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

Section V-5 of the Master EIR analyzes Water Supply impacts resulting from development projects envisioned in the General Plan. The Master EIR identified the following environmental impacts relative to water supply:

Effect: Modesto Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer overdraft. In addition, the Urban Water Management Plan (UWMP) requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that any increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the Modesto Regional Water Treatment Plant (MRWTP) to its full 60 million gallons per day (mgd) capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Modesto Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by 2020. Modesto will have a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan water supply policies pertinent to the project are found on pages V-5-7 through V-5-8 of the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific water supply effect not previously analyzed in the Master EIR. The project would have a new significant water supply effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Require new or expanded water entitlements because sufficient water supplies are not available to serve the project from existing entitlements and resources.	☐	☒

Discussion:

(1-2) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter V, Section C, of the General Plan.

The existing water use for the medical office building, based on City of Modesto water meter readings, is 353,000 gallons per year and 13,100 gallons per day (0.02 cubic feet per second). The replacement medical office building would increase in square footage (approximately 44,500 sf) and the number of fixtures would increase. There would be 29 more faucets, 17 more toilets, and six more urinals, while water fountains would decrease by five. The new fixtures in the replacement building would be more efficient than the current fixtures. For example, the toilets are currently 3.5 gallon flush and would become 1.6 gallon flush in accordance with current code requirements. However, it is anticipated that the increase in building size and number water fixtures in the replacement building would increase the annual average water use by approximately 50 percent. Therefore, the average water use for the replacement medical office building is anticipated to increase by 6,550 gallons per day (0.01 cubic feet per second) to 19,650 gallons per day. The total anticipated water usage of the proposed project (including

demolition of seven single family houses) corresponds to the water usage of 25 equivalent dwelling units.

The City currently has sufficient water supply to serve the existing building and could therefore continue to serve the replacement medical office building (Jakab 2006). No new or expanded water entitlements would be necessary to serve the project. Prior to issuance of the building permit, all applicable water fees must be paid.

All recommended system improvements, as required by the City of Modesto Public Works must be installed by the applicant. The project would include the upgrade of the water supply pipeline in Lucern Avenue from a 6-inch line to an 8-inch line and the water supply pipeline in Sunnyside Avenue would be upgraded from a 4-inch line to an 8-inch line. The water line replacements are consistent with the City's design criteria for such facilities and the replacements are being implemented to address existing water pressure problems.

The project would not result in any new significant effects on water supply and no new or additional mitigation measures or alternatives are required for the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

Section V-6 of the Master EIR analyzes Sanitary Sewer Service impacts resulting from development projects envisioned in the General Plan. The Master EIR identified the following environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and National Pollution Discharge Elimination System (NPDES) permits from the Central Valley Regional Water Quality Control Board (RWQCB), as required under Urban Area General Plan Policy V-D.2(a)(Master EIR mitigation SS-1, page V-6-2). Implementing the WMP, requiring the implementation of best management practices (BMPs) for post-construction activities, and Urban Area General Plan policy V-D.2(a), will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Modesto Urban Area General Plan. Development within the Baseline Developed and Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan sewer service policies pertinent to the project are found on pages V-6-4 and V-6-5 of the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific sewer service effect not previously analyzed in the Master EIR. The project would have a new significant sewer service effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter V, Section D, of the General Plan.

(2) Based on the existing water use for the medical office building, 353,000 gallons per year and 13,100 gallons per day (0.02 cubic feet per second), the existing wastewater is 13,100 gallons per day. Because the replacement medical office building is anticipated to increase the annual average water use by approximately 50 percent, the associated wastewater is also anticipated to increase by 6,550 gallons per day (0.01 cubic feet per second) to 19,650 gallons per day. This would result in a flow increase of approximately 0.8 percent of the full sewer main capacity in Coffee Road, approximately 0.7 percent of the sanitary peak flow, and 0.57 percent of the peak wet weather flow in this main pipeline.

The medical office building is located in sewer service tributary Area 5. The project would include upgrading the water supply pipeline in Lucern Avenue from a 6-inch line to an 8-inch line and the water supply pipeline in Sunnyside Avenue would be upgraded from a 4-inch line to an 8-inch line. The wastewater line replacements are consistent with the City's design criteria for such facilities and the replacements are being implemented to mitigate existing water pressure problems. The main sewer line under Coffee Road changes in size from 10-inches to 15-inches just south of Locke Road. The City of Modesto Public Works recommends that the new sewer connection be made directly into this 15-inch sewer main. This sewer main becomes full under existing conditions at peak wet weather conditions, which is not consistent with the City's design criteria. However, as described above, the proposed replacement building would contribute less than one percent to the sewer flow in this main.

The replacement medical office building was considered in the City of Modesto Wastewater Collection System near term capacity study for sewer treatment and

disposal under the 1,016 equivalent dwelling units (EDU) of miscellaneous commercial, expected to develop in the near term (based on a five year average). The additional wastewater flows from the replacement medical office building could be served by the existing wastewater treatment plants and no plant upgrades would be necessary. Therefore, at project completion, there would be sufficient conveyance and treatment capacity to service the replacement medical office building (Jakab 2006). In addition, prior to issuance of a building permit, the applicant will be required to pay their fair-share contribution for required wastewater collection, treatment, and disposal.

The project would not result in any new significant effects on wastewater services and no new or additional mitigation measures or alternatives are required for the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

Section V-7 of the Master EIR analyzes wildlife and plant habitat impacts resulting from development project envisioned in the General Plan. The Master EIR identified the following environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan wildlife and plant habitat policies pertinent to the project are found on page V-7-15 through V-7-21 of the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study. The project site lies outside the Biological Resource Study Area, shown on Figure V-7-1d of the Master EIR. Policy SWPH-20 (Master EIR, page V-7-19) states that proposed development consistent with the General Plan in the Baseline Developed Area does not require further biological study unless specific information concerning the known presence of significant biological resources is identified by future California Natural Diversity Database (CNDDB), consultation, or other qualified sources.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific effect not previously analyzed in the Master EIR. The project would have a new significant biological resources effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Per consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service, have a significant effect on special status species.	☐	☒
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter VII, Section E, of the General Plan.

(2) The project site is developed and paved, and has been for nearly 50 years. The only vegetation is ornamental trees, shrubs, and ground-cover. A search of the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants resulted in no occurrences of rare or endangered plants for the following quadrangles that cover or surround the project site: Salida, Riverbank, Ceres, and Brush Lake (California Department of Fish and Game, 2006). However, the California Natural Diversity Database (CNDDB) RareFind 3 database search resulted in the occurrence of six Federal or State listed species within a five-mile radius (Department of Fish and Game, 2006). Some of these occurrences may be due to the presence of the Dry Creek riparian corridor located less than half a mile from the project site. The CNDDB species occurrences included:

- federally threatened California tiger salamander (*Ambystoma californiense*)
- federally endangered vernal pool tadpole shrimp (*Lepidurus packardi*)
- federally threatened vernal pool fairy shrimp (*Branchinecta lynchi*)
- state threatened Swainson's hawk (*Buteo swainsoni*)
- federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*)
- federally endangered and state threatened San Joaquin kit fox (*Vulpes macrotis mutica*)

However, the project site, which is developed and surrounded by urban development, does not provide appropriate habitat to support the presence of any of these special status wildlife species. The site does not support any ground squirrel burrows, wetlands

or vernal pools and could therefore not support California tiger salamander, vernal pool tadpole shrimp or vernal pool fairy shrimp. Although there are mature ornamental trees on the project site, Swainson's hawks require adjacent foraging areas (such as grasslands or grain fields) and there are no adjacent fields to support such foraging habitat for this species. There are no elderberry shrubs on the project site to support the valley elderberry longhorn beetle. Finally, San Joaquin kit fox requires open grasslands and loose-textured soils for burrowing, neither of which exists on or near the project site.

(3) The project site lies outside the Biological Resource Study Area, shown on Figure V-7-1d of the Master EIR.

There are 123 mature trees on the project site. These trees are located within an urban area and are not protected by a tree preservation policy or ordinance. However, the approximately 50 street trees that would be removed for street improvements would be replaced at a one to one ratio and the City has recommended planting 24-inch box trees if possible (Exhibit 9).

The project would not result in any new significant biological resource effects. No further study is required and no new or additional mitigation measures or alternatives are required for the project.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

Section V-8 of the Master EIR provides analysis of Archaeological and Historical impacts resulting from development projects envisioned in the General Plan. The Master EIR identified the following environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors. However, should this occur, it would have a significant effect.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. No impact would be expected to occur, since the buildings to be removed or demolished are not considered to have historical significance. This would be a less-than-significant impact with implementation of Master EIR mitigation measure Cultural-1.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan archaeological or historic policies pertinent to the project are found on pages V-8-11 through V-8-14 of the Master EIR. The applicable measures will be

incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific archaeological or historical resource effect not previously analyzed in the Master EIR. The project would have a new significant archeological or historical resources effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter VII, Section F, of the General Plan.

(2) In compliance with CEQA and City of Modesto Policies AH-3 through AH-5 and AH-13, EDAW conducted a cultural resources survey of the proposed project area (EDAW, 2006, Appendix B). According to the files maintained by the CCIC, no prehistoric or historic resources have been identified within the project area. One isolated pestle (P-50-001835) has been recorded within a ½ mile radius of the project site. Although no historic resources within a ½ mile radius have been reported to the CCIC, their files indicate that historic resources in the immediate area may include: a cemetery complex, three monuments, the Downey High and John Muir Schools, and the Kewin and Thousand Oaks Parks. Each of these sites and objects were established more than 50 years ago, and could be considered cultural resources.

A field visit was made to the project area by EDAW cultural resource specialist Angel Tomes on August 4, 2006. The purpose of the visit was to conduct an assessment of the area to be impacted by construction activities during the proposed project. Vacant lots on Lucern and Sunnyside Avenues were surveyed for the presence of archaeological material. Trucks and machinery were parked on the lot fronting Sunnyside Avenue. Ground surface visibility on both parcels was generally greater than 90 percent. No archaeological resources were observed.

During the field visit, six historic-era residences on Locke Road, and the existing Sutter Gould medical building were recorded. Each of these buildings was constructed more than 45 years ago, and thus requires an assessment of their potential for listing on the California Register of Historical Resources (CRHR). These resources were

photographed and documented on the appropriate California Department of Parks and Recreation forms.

Locke Avenue Residences

Research did not indicate that any of the residences within the study area are associated with events or persons considered important in local history (CRHR criteria 1 and 2). The buildings themselves are typical examples of a common type of architecture, and do not embody distinguishing architectural characteristics, or represent the work of a master (CRHR Criterion 3). This type of architecture is well represented in both written and visual sources; therefore, these buildings do not appear likely to yield important new information on historic construction techniques or technologies (Criterion 4). Therefore, these residences are not eligible for listing on the CRHR.

Sutter Gould Medical Foundation Building

This building does not appear to be eligible for listing on the CRHR. Although it has no known important association to events or persons considered significant in local or statewide history (criterion 1 and 2), the primary reason for its ineligibility is its loss of historic integrity. This building was originally three-stories when it was first constructed. A fourth floor was added in the late 1970s, changing the configuration and the scale of the building. Over the years different physician groups utilizing the facility undertook various tenant modifications (Darci Hernandez, Pers. Comm. 2006). The most significant factor pertaining to the integrity issue is the addition of the fourth floor and the overall change it effected in the building's appearance.

As outlined in the California Code of Regulations, Section 4852 (c), a resource must retain sufficient integrity to its original historical appearance. The changes to the subject property have affected its integrity of design, materials and workmanship, changing the original appearance of the structure. The modifications made to the building were undertaken less than 50 years ago and do not represent historical or architectural value.

The cultural resource investigation did not reveal the presence of archaeological material and determined that the residences and the medical office building are not eligible for listing on the CRHR. Therefore, the project would not result in any new significant archaeological or historical resource effects and no new or additional mitigation measures or alternatives are required for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

Section V-9 of the Master EIR provides analysis of storm drainage impacts of development of the Modesto Urban Area General Plan. The Master EIR identified the following environmental impacts relative to storm drainage:

Effect: The potential impacts on stormwater drainage that could occur from the Modesto Urban Area General Plan were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Modesto Urban Area General Plan includes policies that require new development in all three

sections of the planning area to install approved drainage facilities, the potential impacts of the Modesto Urban Area General Plan on stormwater drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban stormwater drainage. Cumulative hydrologic impacts of stormwater flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of Modesto Irrigation District (MID) and Turlock Irrigation District (TID) irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing stormwater runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan storm drainage policies pertinent to the project are found on page V-9-4 of the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific storm drainage effect not previously analyzed in the Master EIR. The project would have a new significant storm drainage effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off site.	☐	☒
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter V, Section E, of the General Plan.

(2-3) Due to the conversion of single family houses and two vacant lots to paved surface parking for the medical office building, the total impervious surfaces on the project site would increase over existing coverage. However, in accordance with the City's requirements, all stormwater would be retained and infiltrated on-site. All on-site stormwater would be collected in drainage inlets and would drain to a City-approved media filtration box (stormfilter by Contech), which would treat the stormwater and allow it to percolate into the ground. Therefore, the project would not contribute runoff that would exceed the capacity of the stormwater drainage system nor provide substantial additional sources of polluted runoff.

During project construction, best management practices would be implemented per the *California Stormwater Quality Association Best Management Practices Handbook for Construction* (January 2003). The Construction Handbook provides general guidance for selecting and implementing best management practices (BMPs) that will eliminate or reduce the discharge of pollutants from construction sites to waters of the state and developing and implementing stormwater pollution prevention plans (SWPPPs) that document the selection and implementation of BMPs for a particular construction project. The SWPPP would all potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site; describe BMPs to be used to reduce pollutants in storm water discharges from the construction site; and help assure compliance with the terms and conditions of the stormwater permit.

The project would not result in any new significant storm drainage effects and no new or additional mitigation measures or alternatives are required for the project.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

Section V-10 of the Master EIR analyzes flooding and water quality impacts of development projects envisioned in the Modesto Urban Area General Plan. The Master EIR identified the following environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the General Plan on flooding are considered less than significant because the Modesto Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install stormwater drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the General Plan on surface water quality are considered less than significant because the City policies and capital improvement projects for stormwater drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES stormwater permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through

vegetation, or otherwise reducing the off-site discharge of particulates and sediment are the most effective method of controlling off-site discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. The Environmental Protection Agency (EPA) regulations for NPDES stormwater permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the County will reduce potential water quality impacts to a less-than-significant level.

b. Master EIR Mitigation Measures Applied to the Project

As shown on Figure V-10-1c of the Master EIR, the project site is not located in an area with the potential for flooding. Modesto Urban Area General Plan flooding and water quality policies pertinent to the project are found on pages V-10-7 through V-10-10 of the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific flooding or water quality effect not previously analyzed in the Master EIR. The project would have a new significant flooding or water quality effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒
(3)	Not comply with Modesto's Guidance Manual for New Development Stormwater Quality Control Measures.	☐	☒
(4)	Create or contribute runoff water, which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, as shown on Figure V-10-1c of the Master EIR, the project site is not located in an area with the potential for flooding and the project would be consistent with the policies of Chapter VI, Section C, of the General Plan.

(2) Redevelopment of the project site would be required to comply with the Clean Water Act and the Porter-Cologne Act. The City will require adherence to any Clean Water Act requirements it deems appropriate.

(3) Redevelopment and expansion of the existing medical office building and surface parking lots on the project site must comply with the City's Guidance Manual for New Development Stormwater Quality Control Measures. Compliance would be ensured through City review of building plans and building inspection.

(4) Please refer to Section IV.9, "Storm Drainage," responses to questions two and three, of this Initial Study.

The project would not result in any new significant flooding or water quality effects and no new or additional mitigation measures or alternatives are required for the project.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

Section V-11 of the Master EIR analyzes parks and recreation impacts of development projects envisioned in the Modesto Urban Area General Plan. The Master EIR identified the following environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan parks and open space policies pertinent to the project are found on pages V-11-4 through V-11-8 of the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific effect not previously analyzed in the Master EIR. The project would have a new significant parks and open space effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter V, Section G, and Chapter VII, Section B, of the General Plan.

The project site does not contain any parks or open space, nor would the project site after redevelopment of the replacement medical office building. The project would not affect parks or open space. In addition, appropriate Capital Facility Fees, including parks fees, must be paid before any building permits can be issued. Fees applied to new development on the project site would be those fees in effect at the time the building permit is issued.

The project would not result in any new significant parks and open space effects and no new or additional mitigation measures or alternatives are required for the project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

Section V-12 of the Master EIR provides analysis of school impacts resulting from development envisioned in the Modesto Urban Area General Plan. The Master EIR identified the following environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, eight middle schools, and seven high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that increased enrollment would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan schools policies pertinent to the project are found in pages V-12-4 and V-12-5 of the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a new project-specific significant schools effect not previously analyzed in the Master EIR. The project would have a new significant effect on schools if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter V, Section H, of the General Plan.

(2) The project site does not contain, nor would it contain, any school facilities and would not change or generate any new population in the City of Modesto. Therefore, the project would not have a direct impact on schools. However, redevelopment of the project site would be required to comply with the provisions of SB 50/Proposition 1A. The project applicant would be required to pay schools fees in effect at the time the building permit is issued. Payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The project would not result in any new significant schools effects and no new or additional mitigation measures or alternatives are required for the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

Section V-13 of the Master EIR analyzes police service impacts resulting from development envisioned in the Modesto Urban Area General Plan. The Master EIR identified the following environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan police services policies pertinent to the project are found on pages V-13-3 and V-13-4 of the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific police services effect not previously analyzed in the Master EIR. The project would have a new significant effect on police services if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter V, Section J, of the General Plan.

(2) The Modesto Police Department's current officers-to-residents ratio is approximately 1.3 per 1,000. The project would result in an increase in the size of the medical office building (approximately 44,500 sf increase). The estimated increase in the number of patients at any given time is from 94 to 109. Sutter Gould currently does not anticipate an increase in the number of staff. The project would also result in the removal of seven single family houses on Locke Road, which could result in a reduction in demand for police services. The Modesto Police Department stated that the new medical office building would not impact their ability to provide police services (pers. comm., Rhea 2006).

The project would not result in any new significant police service effects and no new or additional mitigation measures or alternatives are required for the project.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

Section V-14 of the Master EIR analyzes fire service impacts resulting from development envisioned in the Modesto Urban Area General Plan. The Master EIR identified the following environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan fire services policies pertinent to the project are found on pages V-14-3 through V-14-5 of the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific fire services effect not previously analyzed in the Master EIR. The project would have a new significant effect on fire services if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter V, Section K, of the General Plan.

(2) The project would result in a replacement medical office building that is the same height as the existing building, but approximately 44,500 sf larger. The replacement medical office building would be located directly adjacent to the existing building, which would be demolished, and would be constructed according to the Modesto Fire Department's code requirements. In addition, the project would result in the removal of seven single family houses on Locke Road, which could result in a reduction in demand for fire services. The Modesto Fire Department stated that they will be able to serve the proposed building, at its proposed location (pers. comm., Payton 2006).

The project would not result in any new significant fire services effects and no new or additional mitigation measures or alternatives are required for the project.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

Section V-15 of the Master EIR analyzes solid waste impacts of development envisioned in the Modesto Urban Area General Plan. The Master EIR identified the following environmental impacts relative to solid waste:

Effect: Since Modesto Urban Area General Plan would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.

Effect: The Modesto Urban Area General Plan makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan solid waste policies pertinent to the project are found on pages V-15-5 and V-15-6 of the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific solid waste effect not previously analyzed in the Master EIR. The project would have a new significant solid waste effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Result in waste stream levels that exceed disposal capacity and the County is unable to expand its solid waste disposal capacity.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter V, Section L, of the General Plan.

(2) Expansion of the medical facility would result in an increase of approximately 44,500 sf of building space. However, Sutter Gould anticipates that the expansion would not increase the number of staff and that there would be only a slight increase in the number of patients at any given time (from 94 to 109). The replacement medical office building would be constructed with the required recycling and garbage enclosures per the City of Modesto Garbage Enclosure Guidelines (as adopted by Resolution #2005-404). The expansion of the medical office building is not anticipated to result in a substantial increase in the generation of solid wastes. Therefore, the project would not create the need for expansion of solid waste disposal capacities. The City has stated that it can and will continue to provide solid waste services to the medical office building (pers. comm., Rodriguez 2006). As is currently the case, there would be medical waste bins (for materials such as syringes) on site adjacent to the trash enclosures. The medical waste bins would be locked and the medical waste would be picked up on a weekly basis by a medical waste company.

The project would not result in any new significant solid waste effects and no new or additional mitigation measures or alternatives are required for the project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

Section V-16 of the Master EIR analyzes hazardous material impacts resulting from development envisioned in the Modesto Urban Area General Plan. The Master EIR identified the following environmental impacts relative to hazardous materials:

Effect: The impacts of the Modesto Urban Area General Plan relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR Mitigation Measures Applied to the Project

Federal, State, County, and Modesto Urban Area General Plan hazardous materials policies pertinent to the project are found on pages V-16-5 through V-16-12 in the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific hazardous materials effect not previously analyzed in the Master EIR. The project would have a new significant hazardous materials effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Not comply with all applicable Federal, State, and County standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	☒
(3)	Contains a contaminated site not identified as of March 2003.	☐	☒
(4)	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	☒
(5)	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter V, Section M, of the General Plan.

(2-5) The Master EIR lists hazardous materials sites located in the City. The project site is not located near any listed hazardous materials or contaminated sites. The project site is located within ¼-mile of John Muir Elementary School.

According to the Phase I Environmental Site Assessment (Bovee Environmental Management, Inc., March 2006) prepared for the project site, no environmental conditions were observed that would warrant further investigation. The federal, state, and local agencies environmental database review identified the project site six times. The six listings relate to the generation and disposal of medical and laboratory waste chemicals, previously closed emergency response cases and hazardous waste manifests relating to off-site asbestos disposal. However, none of the six listings warrants further investigation. In addition, the site history and land use review did not identify any environmental concerns with previous owners/tenants. The Phase I Environmental Site Assessment (Bovee Environmental Management, Inc., March 2006) is available for review at the City of Modesto Community and Economic Development Planning Division.

Asbestos Inspection Reports (Bovee Environmental Management, Inc., 2005 and 2006) for the existing Sutter Gould medical office building as well as six houses located on the northern boundary of the project site on Locke Road identified the presence of asbestos-containing building materials. Asbestos poses health hazards only when inhaled; therefore, friable (easily crumbled) asbestos is potentially hazardous if not encapsulated. Non-friable asbestos or encapsulated asbestos does not pose substantial health risks. During building demolition, asbestos fibers could be disturbed, released into the air, and inhaled by construction workers or the public unless proper precautions are taken. In addition, given the age of the structures (approximately 50 years old), there is a likelihood that lead-based paint may be present on-site as well, which could also become friable when the buildings are demolished. The Asbestos Inspection Reports (Bovee Environmental Management, Inc., 2005 and 2006) are available for review at the City of Modesto Community and Economic Development Planning Division.

Sutter Gould shall coordinate with all appropriate agencies, including the Stanislaus County Department of Environmental Resources Hazardous Materials Division (Stanislaus County HMD), the Central Valley Regional Water Quality Control Board (Central Valley RWQCB), the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), Department of Toxic Substances Control (DTSC), the Environmental Protection Agency (EPA), California Occupational Safety and Health Administration (Cal/OSHA), and any other applicable federal, State, or local regulatory agencies, regarding appropriate methods to address asbestos and lead-based materials during demolition of the medical office building and single family houses. Methods for containment/removal of asbestos- and lead-containing materials would follow all regulatory standards. All contaminated asbestos- and lead-containing materials removed from the project site shall be disposed of in a manner consistent with applicable regulations at an appropriate off-site disposal facility.

In addition, the Stanislaus County HMD shall be notified if evidence of previously undiscovered soil or groundwater contamination (e.g., stained soil, odorous groundwater) is encountered during excavation activities. Any contaminated areas shall be remediated in accordance with recommendations made by the Stanislaus County HMD, Central Valley RWQCB, DTSC, or other appropriate federal, State, or local regulatory agencies. Compliance with these regulations would prevent the project from resulting in a significant risk to construction workers or the public from exposure to hazardous materials currently present on the site.

During the course of patient care and facility maintenance operations, the facility uses various materials, some of which pose potential hazards. Hazardous materials used or generated on-site include: refrigerant, elevator hydraulic oil, fire extinguisher charge (dry chemicals), and infectious wastes (sharps, biohazards). The medical office building does not handle, store, or use any acutely hazardous materials. The project would result in a minor increase hazardous materials storage and handling at the medical office building due to the increase in building square footage. However, the continued use of the hazardous materials listed above would not increase risks of human and environmental exposure to hazardous materials. In addition, although the medical office building uses and stores only a small amount of hazardous substances, it still has a Hazardous Materials Business Plan (HMBP) on file with the Department of Environmental Resources.

The project would follow all applicable federal, state, and local regulations during construction and operation of the medical office building and would not result in any new

significant hazardous materials effects and no new or additional mitigation measures or alternatives are required for the project.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

Section V-17 of the Master EIR analyzes landslides and seismic impacts of development envisioned in the Modesto Urban Area General Plan. The Master EIR identified the following environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to Surface Mining and Reclamation Act (SMARA) requirements; therefore, the Modesto Urban Area General Plan impact will be less than significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements; therefore, the Modesto Urban Area General Plan impact will be less than significant.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan policies pertinent to the project are found on pages V-17-6 and V-17-7 in the Master EIR. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific seismic effect not previously analyzed in the Master EIR. The project would have a new significant seismic effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter VI, Sections B and E, of the General Plan.

(2) According to the Master EIR's description of the General Plan study area, the project site is not located in area subject to landslide, lateral spreading, subsidence, liquefaction, or collapse.

According to the project-specific geotechnical engineering investigation, there are no active fault traces in the project vicinity, the project site is not within an Earthquake Fault Zone (Special Studies Zone), and the site is located in Seismic Zone 3 (Krazan & Associates, Inc. 2005). (The earthquake hazard potential for the U.S., determined through a national program, has been generalized into four seismic zones, numbered Zone 1 through Zone 4. Zone 1 has the lowest earthquake danger and Zone 4 has the highest earthquake danger.)

Secondary hazards from earthquakes include rupture, seiche, landslides, liquefaction, and subsidence. Since there are no known faults in the project area, there is no risk of ground rupture from surface faulting. There is no risk of seiche because there is no large body of water in the vicinity of the project site. There is also no risk of landslides at the project site because the site and its surroundings are relatively level with no major changes in grade. Liquefaction potential (the sudden loss of shear strength in a saturated cohesionless soil) is low because ground shaking intensities are not strong enough to generate this type of failure. Finally, deep subsidence problems may be low to moderate; however, there are no known occurrences of structural or architectural damage due to deep subsidence in the Modesto area (Krazan & Associates, Inc. 2005).

The project would not result in any new significant seismic effects and no new or additional mitigation measures or alternatives are required for the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

Section V-18 of the Master EIR analyzes energy impacts of development envisioned in the General Plan. The Master EIR identified the following environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the Modesto Urban Area General Plan. Title 24 of the California Code of Regulation ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

b. Master EIR Mitigation Measures Applied to the Project

Modesto Urban Area General Plan Energy Conservation Policies 1.a through 1.c are pertinent to the project and are found on pages V-16-5 through V-16-12 in the Master EIR. These policies would reduce direct impacts to less than significant by, among other measures,

promoting pedestrian-oriented development, the use of shade trees, and utilities coordination. The applicable measures will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigation Measures Applied to Project," of this Initial Study.

c. Project-Specific Effects

This section analyzes whether the project would result in a significant project-specific energy effect not previously analyzed in the Master EIR. The project would have a new significant energy effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would comply with Title 24 standards and would be consistent with the energy policies in the Modesto Urban Area General Plan, Chapter VII, Section I.

The project would not result in any new significant energy effects and no new or additional mitigation measures or alternatives are required for the project.

19. PLANNING AND LAND USE

The certified Modesto Urban Area General Plan Master EIR addressed significant effects in 18 resource areas. The analysis in the Master EIR is based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR. Therefore, this section examines only the potential for project-specific planning and land use effects.

a. Project-Specific Effects

The project would have a significant planning and land use effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Include a substantive amendment to the Modesto Urban Area General Plan.	☐	☒
(3)	Physically divide an established community.	☐	☒

Discussion:

(1) Chapter 2, Section C, of the Master EIR, "Anticipated Subsequent Projects," identifies 18 types of projects that are declared to be within the scope of the Master EIR as defined by Public Resources Code 21157.1. Chapter 2, Section C.5, states that, "the City may undertake rezonings at the request of private applicants or on its own initiative for the purpose of implementing the Urban Area General Plan." Chapter III-6, Land Use Polices (a) of the Modesto Urban Area General Plan states that the zoning code and zoning map shall be the primary vehicle to guide future development in the Baseline Developed Area. The project site is within the Baseline Developed Area. The existing medical office building facilities are within an existing planned development zone, P-D (30), which allows for the proposed uses. The medical office building would be relocated within the boundaries of the existing P-D (30) zone. The proposed rezoning of the P-D (30) would change a portion of the R zone, which would be used for surface parking, and incorporate it into the P-D (30) zone for consistency. Parking is allowed in both R and P-D [30]; however, the rezone provides consistency for the entire medical office building facilities within the P-D (30) zone. Therefore, the proposed project rezoning implements the General Plan and it is within the scope of the Master EIR. In addition, Chapter 2, Section C.6, "Miscellaneous Land Use Permits," identifies a variety of City permits that facilitate development. The project would require a building permit from the City before construction could start. The building permit would establish that the project construction must take place in accordance with accepted building codes. Therefore, both the P-D (30) amendment and the construction of a replacement medical office building and associated parking are within the anticipated subsequent projects identified in the Master EIR and are within the declared scope of the Modesto Urban Area General Plan Master EIR.

(2) The project is consistent with the Modesto Urban Area General Plan designation for the project site; therefore, no General Plan amendment is necessary.

(3) Development of an expanded replacement medical office building and associated surface parking would occur on the site of the existing medical office building. Additional surface parking would be developed on adjacent lots owned by Sutter Gould that are either vacant or are currently occupied by single family houses (Exhibits 4 and 5). The proposed amendment to P-D (30) from R-1 and R-2 would allow for the demolition of seven single family houses along the northern border of the project site and redevelopment of those parcels, as well as parcels at Sunnyside Avenue and Lucern Avenue, as surface parking. Although it would be allowed by the P-D (30) amendment, the removal of houses and redevelopment of parcels with surface parking would result in an intrusion on the existing neighborhood and eliminate houses that contribute to the residential community. Houses on Locke Road that currently have views across to other single family houses would end up with views of surface parking lots for the new medical office building. In addition, although there is a medical office building parking lot currently near Sunnyside Avenue and Lucern Avenue, the increase in surface parking lots at this intersection would also bring the medical facilities closer to the residential houses in this area.

The medical office building has been part of the neighborhood since the mid-1950s. Although the removal of homes would result in the intrusion of additional medical office facilities on the neighborhood, adjacent residences are already isolated and the project would not create a division in the neighborhood that does not already exist due to the existing medical office building. The additional parking lots would remain clustered at

the current site and the surrounding neighborhood would not be rezoned; it would remain as R-1 or R-2. Therefore, project would not divide an established community.

20. AESTHETICS

The certified Modesto Urban Area General Plan Master EIR addressed significant impacts in 18 resource areas. The analysis in the Master EIR is based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no effects on aesthetics were identified. Therefore, this section examines only the potential for project-specific aesthetic effects.

a. Project-Specific Effects

The project would have a significant aesthetic effect if it would:

		YES	NO
(1)	Be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Have a substantial adverse effect on a scenic vista.	☐	☒
(3)	Substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	☒
(4)	Create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	☒

Discussion:

(1) The project site is designated as mixed use (MU) and residential (R) in the Modesto Urban Area General Plan and is located in an area currently developed with urban land uses. The existing medical office building, parking, and single family houses that occupy the project site are consistent with the General Plan and the P-D (30), R-1 and R-2 zones. The proposed amendment to the existing P-D (30) zone would be consistent with the General Plan as would the replacement medical office building and associated parking. Furthermore, the project would be consistent with the policies of Chapter V, Section M, of the General Plan.

(2) The project site is surrounded by urban development such as single family housing and a school; the site is not located within a scenic vista. Therefore, redevelopment of the site with a replacement medical office building, additional surface parking, and the demolition of the existing medical office building and single family houses would not alter a scenic vista.

(3) The replacement medical office building would be constructed on the same site as the existing facility, which is illustrated in Exhibit 3. The replacement building would be a similar scale and size as the current building. It would have the same height, four stories (approximately 60 feet), but would have a larger total square footage (44,500 sf larger) (Exhibit 5). The replacement building would be located on the eastern portion of the block, next to where the current building is located (Exhibit 5). The current building would be demolished and surface parking would be constructed on the western portion

of the site (Exhibit 5). The architectural rendering and building elevations of the replacement medical office building are provided in Exhibits 6, 7, and 8.

Views of the project site would change due to the redevelopment. From Coffee Road, the view of the medical office building would become less prominent and viewers would see surface parking in the foreground and the replacement medical office building in the background. Views from Sunnyside Avenue would change from viewing the surface parking lot to a prominent view of the replacement medical office building. The view from the south on Lucern Avenue would remain similar to existing conditions, but the medical office building would switch to the eastern portion of the site and the surface parking to the western portion. The view from the north on Locke Road would change due to the removal of the single family houses on the northern boundary of the project site; the view would change from single family houses to surface parking in the foreground and the medical office building in the background.

Although the redevelopment would change the surrounding views of the project site, the overall visual qualities of the project site would be retained. The overall scale, size, and form of the development would be similar to existing conditions, which include a medical office building and surface parking.

The project would result in the removal of all of the trees on the interior of the site for construction of the replacement medical office building and approximately 50 street trees along the perimeter of the project site for street improvements (Exhibit 9). The street trees that would remain are located in the northeastern portion of the project site nearest the intersection of Locke Road and Sunnyside Avenue. The approximately 50 street trees that would be removed would be replaced tree for tree, and the City has recommended planting 24-inch box trees. In addition, the project would include landscaping around the replacement building and throughout the parking lots as required in the Modesto Urban Area General Plan and the City's Municipal Code. The landscaping is described in Section II, "Project Description," of this Initial Study.

Although landscaping requirements of the City would require replanting of trees as part of new landscaping (Exhibits 9 and 10), for a number of years the new trees planted on-site would not be fully grown, would not provide the same amount of shade, and would not be as visually appealing as compared to the existing trees growing on the project site. The trees are expected to mature within ten years and the shrubs would mature in three to five years. Although the trees would be different species than the existing trees, they would provide similar canopy and shade at maturity as currently exists. Because the loss of visual quality and shade would be temporary and the newly planted trees would over time grow to fully replace the existing trees on the project site, the removal of existing on-site trees is not considered significant.

(4) Glare is caused by light reflections from pavement, vehicles, and building materials, such as reflective glass and polished surfaces. During daylight hours, the amount of glare depends on the intensity and direction of sunlight. Glare can create hazards to motorists and nuisances for pedestrians, bicyclists, and surrounding land uses. At night, artificial lighting can cause problems similar to those described for daylight glare, and disturb nearby residents in their homes.

The exterior of the new medical office building would be stucco, curtain wall, and glazing and the colors would incorporate aspects of the natural materials in the surrounding areas (Exhibits 6 through 8). The stucco and curtain wall would not induce glare. The

proposed glazing would be an insulated glazing (Class 2), which is tinted, heat absorbing, and light reducing. The visible reflectance from the glazing would range from approximately eight percent to ten percent.

As with the existing facility, lighting would be required to promote safety and security. Because the medical office building would expand by approximately 44,500 sf, and because new parking lots would be constructed, lighting associated within the new building and exterior light fixtures would increase the amount of ambient light emanating from the site. However, exterior lighting would be limited to safety lighting placed on the buildings to light doorways and walkways, and lighting fixtures mounted on 20-foot poles in parking areas. More decorative fixtures would be used around the building. All exterior lighting would be shielded, focused downward, and focused away from the adjacent residential areas. In addition, all exterior lighting would be limited to non-sodium-vapor lighting.

Because the project would avoid the use of highly reflective architectural materials for exterior building finishes and because the exterior lighting would be limited and shielded, project implementation would not create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. This impact is considered less than significant.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. As referenced in the resource sections, above, the complete list of Modesto Urban Area General Plan policies and Master EIR mitigation measures are provided in the Master EIR. Based on the project description and this consistency analysis, the following Modesto Urban Area General Plan policies and Master EIR mitigation measures are those that are directly applicable to the project and shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

Traffic and Circulation Measures:

City of Modesto Policies

Redevelopment Area and Baseline Developed Area

TC-41: Designated City staff will review future development project proposals within the Baseline Developed Area, on a case-by-case basis. The following criteria will be applied to each proposal, and a determination made by the Public Works and Transportation [now, Engineering and Transportation] Director, regarding the acceptable or appropriate level of project impact on the circulation network.

(1) For proposed development projects that conform to the General Plan-approved land use for the site, it is assumed that the adopted performance standards for the circulation system within the area of impact will be maintained. For such projects, the designated City staff will establish and appropriate scope of study for a "Site Access Study", which may address project impacts to adjacent or nearby intersections, as described in Policies 6-a through 6-c.

(2) The "Site Access Study" shall, at a minimum, analyze, and resolve the following:

(a) Impacts to roadway intersections that are adjacent to the project site.

(b) Impacts to other intersections considered to have a key role in regulating access to the project site or substantial traffic flow between the project site and a key arterial roadway.

(c) Impacts to and design needs for access between internal and off-site vehicular circulation, and linkages to off-site bicycle/pedestrian circulation systems, and transit services.

(d) On site parking needs and impacts to off-site parking, when applicable.

(e) Other operational or safety-related concerns and issues, including site access.

(3) The proposed development project will be designed to incorporate all recommendations of the "Site Access Study".

(4) If implementation of the definitive recommendations of the Site Access Study is impractical or infeasible, a Focused Environmental Impact Report, including a Comprehensive Traffic Study will be required. That study shall include appropriate measures to update the General Plan Traffic Analysis for all subsequent Comprehensive Plans, and for development within the affected Baseline Developed Area and Redevelopment Area.

(5) For projects which do not conform to the General Plan-approved land use, further, supplemental environmental review may be necessary, in accordance with Section 21157.5(d) of the Public Resources Code. (General Plan Policy V-4.B.6[d])

TC-42: Data from the General Plan Traffic analysis, described in the Traffic Appendix of the Master EIR, shall be utilized to evaluate the effectiveness of the Policies presented above. (General Plan Policy V-4.B.6[e])

Air Quality Measures:

City of Modesto Policies

AQ-16: The City of Modesto should implement measures to reduce the temporary, yet potentially significant, local air quality impacts from construction activities. Potential measures to be implemented may include those measures listed in Table 2-6 in the Master Environmental Impact Report. (General Plan Policy VII-H.2[l])

AQ-17: **Table 2-6.** Air Quality Measures to Reduce Construction Impacts

(Note: In order to maintain consistency with the General Plan reference, this table does not follow the nomenclature used for tables elsewhere in this Master EIR.)

1. The following mitigation measures shall be implemented by the City of Modesto, and incorporated into development plans and public facility plans as appropriate:

   a. The City of Modesto shall work with the SJVUAPCD to reduce particulate matter emissions from construction, grading, excavation, and demolition to the maximum extent feasible.

   b. If required by Regulation VIII (Fugitive Dust Rules) of the San Joaquin Valley Unified Air Pollution Control District, the City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development to be constructed with materials that minimize particulate emissions and are appropriate to the scale and intensity of use.

2. The following measures should be strongly encouraged, and incorporated into development plans and public facility plans, when it is shown to be appropriate and feasible

   a. The City of Modesto should reduce PM_{10} emissions from City-maintained roads to the maximum extent feasible

   b. The City of Modesto should adopt a standard set of construction-related mitigation measures that can be adapted to all new, non-emergency construction projects in the City.

AQ-18: The City of Modesto shall require residential development projects and projects categorized as sensitive receptors (hospitals, schools, convalescent homes, etc.) to be located an adequate distance from existing and potential sources of toxic and/or odorous emissions such as freeways, major arterials, industrial sites, refuse transfer or disposal sites and hazardous material locations. (General Plan Policy VII-H.2[m])

New Master EIR Mitigation Measure Air-1: PM10 Control Measures

a. SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM_{10}. The following controls are required to be implemented at all construction sites:

   1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover

   2. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

   3. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

   4. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

5. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

6. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. *(The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)*

7. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

8. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

9. Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

b. Enhanced Control Measures. The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts (note, the applicable measures are to be implemented in addition to Regulation VIII requirements):

1. Limit traffic speeds on unpaved roads to 15 mph; and

2. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1 percent).

New Mitigation Measure Air-2: Additional PM_{10} Control Measures.

The following measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reductions:

1. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site;

2. Install wind breaks at windward side(s) of construction areas;

3. Suspend excavation and grading activity when winds exceed 20 mph; and

4. Limit the area subject to excavation, grading and other construction activity at any one time.

(Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent (20 percent) opacity limitation.)

Noise Measures:

City of Modesto Policies

N-5: The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 AM or after 9:00 PM daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 AM and after 9:00 PM):

1. A hammer, or any other device or implement used to pound or strike an object.

2. An impact wrench, or other tool or equipment powered by compressed air.

3. A hand-powered saw.

4. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

5. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

6. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

7. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

All development projects located within the Baseline Developed Area (and Redevelopment Area) are required to incorporate the policies listed below into the project.

N-6: The City of Modesto shall require noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following;

1. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

2. Other proposed uses: the noise/land use compatibility guidelines (i.e., those noise levels which are "conditionally acceptable," "normally Unacceptable," or "clearly unacceptable,") shown in Table 1 and the most recent noise contours for the City shown in Figure VII-1 [of the City's Urban Area General Plan]. (General Plan Policy VII-G.3[a])

N-7: During City review of a proposed project consistent with the updated General Plan, the City of Modesto shall use the following guidelines to decide whether to require additional study and/or mitigation:

1. Single family Residential uses: the Ldn 65 contour, as depicted on the most recent noise contours for the City, shown in Figure VII-1 [of the City's Urban Area General Plan].

2. Other proposed uses: the noise/land use compatibility guidelines (i.e., those noise levels which are "conditionally acceptable," "normally unacceptable," or "clearly unacceptable,") shown in Table 1 and the most recent noise contours for the City shown in Figure VII-1 [of the City's Urban Area General Plan]. (General Plan Policy VII-G.3[b])

N-9: The City of Modesto shall use the most recent noise contour map to implement the requirements of Noise Insulation Standards contained in Title 24 of the California Code of Regulations. (Title 24 applies to multi-family housing, not single family.) Title 24 also specifies minimum values for the sound insulation afforded by interior partitions separating different dwelling units from each other and from interior common space. (General Plan Policy VII-G.3[d])

N-10: For proposed non-residential uses, where noise mitigation is deemed necessary for new developments to meet the exterior noise land use compatibility guidelines (Figure VII-2 [of the General Plan]), the City of Modesto shall require developers to demonstrate that the proposed development will incorporate measures to reduce noise impacts to a less-than-significant level, as follows:

1. Where feasible and consistent with General Plan policy, incorporate setbacks and/or locate less-sensitive uses between a noise source and noise-sensitive uses.

2. Provide (to the extent feasible and consistent with General Plan policy) berms, barriers, or other techniques to shield nose-sensitive uses from noise sources.

3. Incorporate construction techniques to achieve an interior noise limits. One source that can be used for such specifications is the "recommended Maximum Interior Noise Level Criteria for Intermittent Noise," (Table 2, Noise Insulation Problems in Buildings, Paul S. Veneklasen & Associates, January 1973). (General Plan Policy VII-G.3[e])

N-12: In recognition of the conservative methodology used to develop the noise contours shown on Figure VII-1 [of the City's Urban Area General Plan], builders, developers (for private development projects) and the City (for Capital projects) shall be allowed to demonstrate that detailed noise studies and/or mitigation are not necessary because future noise levels would be substantially less than depicted on Figure VII-1 due to, for example, natural shielding (e.g., from intervening topographical features or man-made structures) of a site or inapplicability of assumptions (shown on Table 3-3 of the Master Environmental Impact Report) used to develop the noise contours. (General Plan Policy VII-G.3[g])

Agricultural Land Measures:

None

Water Supply Measures:

City of Modesto Policies

WS-6: Each Comprehensive Plan should include a long-term financing strategy which provides reasonable estimates of costs of on- and off-site infrastructure to support the proposed development pattern. The strategy should generally address public-facility funding, including schools, for any development project which serves to implement the subject Comprehensive Plan. If new public facilities are required which will also serve the broader community, the Comprehensive Plan should include options for broad-based funding mechanisms. (Policy III-D.1[d])

Baseline Developed Area

WS-7: During review of all proposed development, the City shall require, as a condition of approval, that all developments reduce their potable water demand. The City should refer to Table V5-1 in the Final Master EIR for potential techniques to reduce potable water demand. (Policy V-C.2[a])

WS-8: The City of Modesto will encourage the optimum beneficial use of water resources within the City. The City shall strive to maintain an adequate supply of high-quality water for urban uses. (Policy V-C.2[b])

WS-9: The City of Modesto will strive to stabilize groundwater levels and eliminate groundwater overdraft, as part of a conjunctive groundwater-surface water management program. The City shall view regional water resources, such as groundwater, surface water, and recycled wastewater, as an integrated hydrologic system when developing water management programs. (Policy V-C.2[c])

WS-10: The City of Modesto will be the sole provider of municipal and industrial water services to the area within the City's Sphere of Influence. The City will cooperate with the overlying agricultural water providers, MID and TID, and with adjacent municipal and industrial providers for the mutually beneficial management of the limited water resources. The City will also take into consideration its public trust duty with regard to environmental uses of water resources. (Policy V-C.2[d])

WS-11: Water facilities will be constructed, operated, maintained, and replaced in a manner that will provide the best possible service to the public, given the financial abilities and constraints of the City and of the private sector alike. (Policy V-C.2[e])

WS-12: The City will continue to establish guidelines, policies, and programs to implement water conservation to the maximum extent feasible. The City shall strive to maximize the utilization of water resources when developing and implementing its Economic Development Strategy. (Policy V-C.2[f])

WS-13: The City supports the local management of groundwater resources, rather than state regulation or adjudication. The City will adopt a Groundwater Management Plan in accordance with AB 3030 and in cooperation with the adjacent and overlying water providers within the groundwater basins the City occupies. (Policy V-C.2[g])

Sanitary Sewer Service Measures:

City of Modesto Policies

SS-4: Under its NPDES permit, Modesto is required to develop, administer, implement, and enforce a Comprehensive Stormwater Management Program to reduce pollutants carried in urban runoff to the maximum extent practicable. The City has adopted a guidance manual specifically to control post-construction urban runoff pollutants from newly developed and redeveloped areas. The manual describes Best Management Practices for source control and treatment control measures for commercial/industrial and multifamily residential sources.

Baseline Developed Area and Redevelopment Area

SS-5: To protect public health and the environment, the City of Modesto will maintain the standards for effluent water and biosolids, from Modesto's wastewater treatment facilities, as established by the Central Valley RWQCB, in compliance with the Federal Clean Water Act, the State Porter-Cologne Act, and their implementing regulations, current and future. (Policy V-D.2[a])

SS-6: Wastewater facilities will be constructed, operated, maintained and replaced in a manner that will provide the best possible service to the public, given the financial abilities and constraints of the City and of the private sector alike. In developing implementation plans, considerations shall be given to rehabilitation of essential existing facilities, expansion for current excess demand, and the timely expansion for future demand. (Policy V-D.2[b])

SS-7: The City's wastewater system capacity will be allocated to existing and future residential, commercial and industrial customers. Discharges from environmental cleanup sites may be issued conditional discharges permits subject to the availability of excess treatment capacity. In accordance with federal and state regulations, all discharges to the wastewater system may not, or may not threaten to, upset, interfere, or pass through the wastewater system. (Policy V-D.2[c])

SS-8: Subject to the approval of the Stanislaus County LAFCO, the City of Modesto and the Salida Sanitary District will be the sole providers of wastewater services to the area within the City's Sphere of Influence and sewer service area. (Policy V-D.2[d])

SS-9: The City will encourage the regional beneficial reuse of reclaimed water. The City is committed to development of a full reclamation program in the long term. (Policy V-D.2[e])

SS-10: The City should strive to use land application of biosolids as the most environmentally beneficial reuse of this resource, rather than the disposal options of landfilling or incineration. (Policy V-D.2[f])

SS-11: The City should establish odor buffer zones around primary and secondary wastewater plant, thereby minimizing the likelihood of odors impacting new residential or commercial development. (Policy V-D.2[g])

SS-12: The City should utilize source control and demand management among its tools for accomplishing the most cost-effective wastewater management, protective of public health and the environment. (Policy V-D.2[h])

Sensitive Wildlife and Plant Habitat Measures:

None

Archaeological or Historic Sites Measures:

City of Modesto Policies

Baseline Developed Area

AH-9: For proposed development outside an identified archaeological resource study area (as depicted on Figure 8-1 in the 1995 Master EIR), no further research for prehistoric deposits is warranted unless specific information concerning the known or potential presence of significant cultural resources is identified in future updates at the applicable cultural resource information repository or through formal or informal input received from a qualified source. If previously unknown subsurface cultural resources are discovered during excavation activities, excavation would be temporarily halted and an archaeologist consulted as to the importance of the resources. Should the archaeologist determine that the resources are important, the project sponsor would follow the procedure described in Policy 2(a), above. (General Plan Policy VII-F.2[b])

AH-12: If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the State CEQA Guidelines. (General Plan Policy VII-F.2[e])

AH-13: When structures or areas of historical significance more than 50 years old are proposed for demolition or alteration or where construction is proposed within 100 feet of that structure, the applicant shall submit to the City data regarding the structure's history or locations and prepared by a qualified architectural historian. The City shall evaluate the historical significance of the proposal and require measures be implemented to preserve all structures and places it deems historically significant. (General Plan Policy VII-F.2[g])

Mitigation Measure Cultural-1: The Modesto Urban Area General Plan shall be amended to include the following policy VII.F.2[g]:

As an ongoing measure, the City of Modesto shall maintain professional standard inventories of historic resources, such as those conducted by Carey and Company in 1997, with the findings of those inventories concurred by the SHPO and kept on file with the State Office of Historic Preservation. The records will provide a preliminary assessment of eligibility at the initial study stage to indicate whether CEQA protections would apply in the case of a project application or whether the resource has previously been determined ineligible. When no previous survey has been conducted, buildings and structures older than 50 years must be evaluated by a professional historian or architectural historian prior to project approval to determine whether the resource is a historically significant resource, for purposes of CEQA.

When CEQA does apply, the character-defining elements of resources that will be affected should be identified by an architectural historian, city staff member, or other professional qualified under Secretary of Interior Standards to review such projects. It is these elements that are a crucial part of the ability of the resource to convey its historic significance. Projects that would alter character-defining elements would cause a compromise in historic integrity and would constitute a significant impact. Projects that follow Secretary of Interior Standards, in consultation with SHPO, can be considered mitigated to a level of less than significant.

The modification of historic structures and places can be mitigated through the application of existing regulations and consultation with the State Historic Preservation Officer, an interim procedure whereby the City evaluates proposals to modify historic structures and develops a program to reduce the impacts on an individual basis.

Storm Drainage Measures:

City of Modesto Policies

SD-4: Plans and specifications for new stormwater facilities within the City of Modesto are reviewed and approved by the Engineering and Transportation Department. Development of stormwater drainage facilities must be in compliance with the requirements for the installation of Best Management Practices (BMPs) as defined in the City's Comprehensive Stormwater Management Program (CSMP) and as outlined in the City of Modesto Design Standards for Dual Use Flood Control/Recreation Facilities, adopted December 12, 2000.

Baseline Developed Area

SD-5: Two-thirds of the Baseline Developed Area is served by underground injection of urban runoff, commonly termed "rockwells". New rockwells will be discouraged within the Baseline Developed Area. Instead, new storm drainage in the Baseline Developed Area shall be by means of positive storm drainage systems unless the proposed service area is so isolated from surface waters that it is infeasible to provide positive drainage.

The new storm drainage facilities shall consider the drainage facility requirements presented in Table 9-1 of the Master EIR. This policy applies to both positive storm

drainage systems and to new rockwells (which are generally discouraged) in the Baseline Developed Area. (General Plan Policy V-E.2[a])

SD-6: The Modesto Irrigation District shall be consulted during the preparation of drainage studies required by the Urban Area General Plan. (General Plan Policy V-E.2[b])

SD-7: The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and Environmental Protection Agency for underground injection. (General Plan Policy V-E.2[c])

SD-8: Stormwater drainage facilities shall be constructed, operated, maintained, and replaced in a manner that will provide the best possible service to the public, given the financial abilities and constraints of the City and of the private sector alike. In developing implementation plans, consideration shall be given to rehabilitation of existing facilities, remediation of developed areas with inadequate levels of drainage service, and the timely expansion of the system for future development. (General Plan Policy V-E.2[d])

Flooding and Water Quality Measures:

City of Modesto Policies

Flooding – None

Water Quality

FWQ-13: The City is authorized to discharge wastewater and municipal stormwater under a municipal NPDES stormwater permit issued by the Central Valley RWQCB. The NPDES program requires the City to implement BMPs for construction activities, stormwater drainage systems, and municipal operations that effectively reduce pollutant transport in stormwater such as erosion control measures, preventive maintenance procedures, public education, and other, more complex, water quality treatment systems.

The City has developed a Comprehensive Stormwater Management Program (CSWMP) to reduce pollutants in stormwater to the maximum extent practicable with requirements for the appropriate use of BMPs. The program includes public awareness and participation, source control, regulatory restrictions, water quality monitoring, and treatment control. The City recently prepared a guidance manual for the New Development Management Program element of the CSWMP that includes design guidelines for source-control measures and treatment-control measures to specifically control urban-runoff pollutants from new development and redeveloped areas (City of Modesto 2000b).

The New Development Management Program includes BMP requirements based on four types of land use developments (i.e., single family residential, multi-family residential, commercial, and industrial), size of the lot (less than or greater than one acre), and whether the development is in an area served by rockwells and/or City treatment control basins (i.e., stormwater retention/detention basins). Source control measures are generally required for all new development and are defined as operational and/or structural practices that prevent or reduce pollutants at their source.

Source control measures typically consist of good housekeeping practices (spill prevention, proper storage methods, and proper waste cleanup procedures).

Treatment control measures are required when necessary to augment source control measures in preventing stormwater pollution. Treatment control measures capture and treat stormwater runoff through settling, filtration, adsorption, and/or biodegradation. Treated runoff is then either discharged to a surface channel or infiltrated into the groundwater. Several treatment control measures suited for the Modesto area include vegetated swales, vegetated filter strips, media sand filters, infiltration devices (e.g., basins, trenches, porous paving), and detention/retention basins. In addition, all new connections to rockwells must use improved catch basins for treatment control. Detention/retention basins are typically required for large developments and large regional facilities.

FWQ-14: The City requires that new development comply with the Guidance Manual for New Development Stormwater Quality Control Measures. These include the following:

1. Single-family Residential: Source control measures and modified catch basins in rockwell areas; source control measures in areas with treatment control basins; source control measures in areas with less than one acre of direct discharge to the city's storm drainage system or surface waters; and source control measures and treatment control basin in areas with more than one acre of direct discharge.

2. Multi-family Residential: Source and treatment control measures and modified catch basins in rockwell areas; source control measures in areas with treatment control basins; source control measures in areas with less than one acre of direct discharge; and source control measures and treatment control basin in areas with more than one acre of direct discharge.

3. Commercial: Source and treatment control measures and modified catch basins in rockwell areas; source control measures in areas with treatment control basins; and source and treatment control measures in areas of direct discharge.

4. Industrial: Source and treatment control measures and modified catch basins in rockwell areas; source control measures in areas with treatment control basins; and source and treatment control measures in areas of direct discharge.

Baseline Developed Area, Redevelopment Area, and Planned Urbanizing Area

FWQ-16: The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and the Environmental Protection Agency for underground injection. (General Plan Policy.V.E.2.C)

Parks and Open Space Measures:

None

Schools Measures:

City of Modesto Policies

Public Schools Policies—Baseline Developed Area

S-7: The City shall continue to require that the developer pay, prior to issuance of any building permits, the maximum residential, commercial, and industrial development school fees in effect at the time building takes place. This requirement is in accordance with the provisions of Assembly Bill 2926. (General Plan Policy V-H.2[e])

Police Services:

None

Fire Services:

City of Modesto Policies

Baseline Developed Area, Redevelopment Area and Planned Urbanizing Area

FS-16: Peak Load Water Supply. The City shall ensure that adequate water fire flows are maintained throughout the City and shall regularly monitor fire flows to ensure adequacy. New development shall comply with the minimum fire-flow rates, as presented in Appendix III-A of the Uniform Fire Code. The Fire Chief is allowed by the Uniform Fire Code to alter any published standards. (General Plan Policy IV-D.1[a])

FS-17: Minimum Road Widths and Clearances around Structures. Minimum road widths and clearances around structures shall conform to Section 10.204(a) of the Uniform Fire Code. The Fire Chief is allowed by the Uniform Fire Code to alter any published standards. (General Plan Policy IV-D.1[b])

Generation of Solid Waste

None

Generation of Hazardous Materials

City of Modesto Policies

HM-13: The City shall comply with all existing federal and state laws, which regulate the generation, transportation, storage, and disposal of hazardous materials (General Plan Policy V-M.2 [a]).

HM-14: The City of Modesto should require that businesses and industries using hazardous material provide mitigation measures commensurate with the hazards they bring to the community, in accordance with the applicable Articles and Sections of the most current adopted edition of the Uniform Fire Code (General Plan Policy V-M.2 [b]).

HM-15: In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City.

The City shall notify the County Health Services Department. Under the direction of these agencies, a site remediation plan shall be prepared by the project applicant (General Plan Policy V-M.2 [c]).

The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City.

If a parcel is contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low enough to allow any use at the site. In practice, the technical feasibility of locating a specific use on a specific site may require restriction to industrial use or a use that involves complete paving and covering of the parcel.

In accordance with OSHA requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record (General Plan Policy V-M.2 [c]).

HM-16: For each specific project that would generate hazardous waste the City shall require, as a condition of building permit and/or business license approval, that the project sponsor prepare a hazardous material transportation program. The transportation program shall identify the location of the new facility or use and designate either (1) specific routes to be used for transport of hazardous materials and wastes to and from the facility, or (2) specific routes to be avoided during transport of hazardous materials and wastes to and from the facility. Routes would be selected to minimize proximity to sensitive receptors to the greatest practical degree. Passage through residential streets should be minimized and parking of waste haulers on residential streets should be prohibited. The City Fire Department shall review and approve the applicant's hazardous material transportation program or, working with the applicant, modify it to the satisfaction of both parties (General Plan Policy V-M.2 [d]).

HM-17: The City shall continue to participate in the existing Household Hazardous Waste Programs, including support of the drop-off facility, continued public information, and participation in the oil and battery collection programs.

HM-18: The City shall comply with Stanislaus County's Hazardous Waste Management Plan, to ensure proper treatment of possible contamination that could spread over City boundaries.

HM-19: Prior to the issuance of all building permits, the City shall identify the site in relation to all CERCLIS sites and to known or suspected uncontrolled or abandoned hazardous waste sites. All projects within 2,000 feet of these facilities shall conduct hazardous materials studies as necessary to identify the type and extent of contamination, if any, and the extent of risk to human health and public safety. If necessary, a remedial action program would be developed and implemented (General Plan Policy V-M.2 [e]).

Stormwater Drainage Policies—Baseline Developed Area

HM-20: Two-thirds of the Baseline Developed Area is served by underground injection of urban runoff, commonly termed "rockwells". New rockwells will be discouraged within the Baseline Developed Area. Instead, new storm drainage in the Baseline Developed Area shall be by means of positive storm drainage systems, unless the proposed service area is so isolated from surface waters that it is infeasible to provide positive drainage.

The new storm drainage facilities shall consider the drainage facility requirements presented in Table 9-1 of the Final Master Environmental Impact Report. This policy applies to both positive storm drainage systems, and to new rockwells (which are generally discouraged) in the Baseline Developed Area, and is subject to the standards listed in the City of Modesto Design Standards for Dual Use Flood Control/Recreation Facilities, adopted December 12, 2000, where applicable.

HM-21: The Modesto Irrigation District shall be consulted during the preparation of drainage studies required by this General Plan.

HM-22: The City of Modesto shall prevent water pollution from urban storm runoff as established by the CVRWCB for surface discharges and Environmental Protection agency for underground injection.

HM-23: Stormwater drainage facilities shall be constructed, operated, maintained and replaced in a manner that will provide the best possible service to the public, given the financial abilities and constraints of the City and of the private sector alike. In developing implementation plans, consideration shall be given to rehabilitation of existing facilities, remediation of developed areas with inadequate levels of drainage service, and the timely expansion of the system for future development.

Potential for Landslides and Seismic Activity

City of Modesto Policies

Baseline Developed Area and Planned Urbanizing Area

LSA-8: The City shall continue to use building codes as the primary tool for reducing seismic risk in structures. The Uniform Building Code, which has been adopted by Modesto, Stanislaus County, and other cities in the County, is intended to ensure that buildings resist major earthquakes of the intensity or severity of the strongest experience in California, without collapse, but with some structural as well as nonstructural damage. In most structures, it is expected that structural damage could be limited to repairable damage, even in a major earthquake. (General Plan Policy VI-B.2[a])

LSA-9: The City shall continue to require all new buildings in the City to be built under the seismic requirements of the Uniform Building Code, 1979 (or subsequent) edition. (General Plan Policy VI-B.2[b])

LSA-10: The City shall continue to explore measures to induce building owners to upgrade and retrofit structures to render them seismically safe. (General Plan Policy VI-B.2[c])

LSA-11: Any construction which occurs as a result of the Urban Area General Plan must conform to the current UBC regulations, which address seismic safety of new structures and slope requirements. As appropriate, the City will require a geotechnical analysis prior to tentative map review in order to ascertain site-specific subsurface information necessary to estimate foundation conditions. These geotechnical studies should reference and make use of the most recent regional geologic maps available from the California Department of Conservation Division of Mines and Geology. (General Plan Policy VI-E.1[a.])

LSA-12: Fluvial erosion during construction shall be controlled by a construction erosion control program which shall be filed with the City Public Works & Transportation Department and kept current throughout any site development phase. (General Plan Policy VI-E.2[a])

LSA-13: The erosion control program shall include "best management practices" as appropriate, given the specific circumstances of the site and/or project. Table 9-2 in the Master Environmental Impact Report presents examples of best management practices. (General Plan Policy VI-E.2[b])

LSA-14: Sediment control basins to capture eroded sediments and contain them on the project sites shall be designed to take into consideration appropriate criteria as outlined in Table 9-3 in the Master Environmental Impact Report. (General Plan Policy VI-E.2[c])

Energy

City of Modesto Policies

E-6: The City of Modesto shall require shade trees, where feasible and appropriate, in landscape plans for all new development proposals. The City shall develop shade-tree specifications for different land uses (residential, commercial, parking lots, etc.) including appropriate types of trees (size, deciduous or evergreen, absence of lower branches, etc.), locations (e.g., distance from structures), density (i.e., within a subdivision or parking lot), and orientation (trees on the west side of a building generally provide the most benefit) for use in landscape plans. (Energy Conservation, Policy 1.a)

Planning and Land Use

None

Aesthetics

None

VI. MANDATORY FINDINGS OF SIGNIFICANCE

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare, or threatened species, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☒	☐
c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

Authority: Public Resources Code Sections 21083 and 21087.
Reference: Public Resources Code Sections 21080(c), 21080.1, 21080.3, 21082.1, 21083, 21083.3, 21093, 21094, 21151; *Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296 (1988); *Leonoff v. Monterey Board of Supervisors*, 222 Cal.App.3d 1337 (1990).

Discussion

a) **Less-than-Significant Impact.** As evaluated in this Initial Study, the proposed project would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of an endangered, rare, or threatened species, or eliminate important examples of the major periods of California history or prehistory. However, the proposed project is consistent with the Master EIR impact analysis and the project would not result in any project-specific environmental effects that would substantially affect wildlife habitats or cultural resources beyond those previously described and considered in the Master EIR.

b) **Less-than-Significant Impact.** The proposed project would relocate and expand an existing medical office building through amendment of the project site land use designation to P-D (30). The proposed land use amendment is consistent within the scope of the Master EIR for the purpose of implementing the Urban Area General Plan because the proposed project is an anticipated subsequent project identified in the Master EIR and within the scope of the Modesto Urban Area General Plan Master EIR. All environmental impacts associated with implementation of the proposed project have been adequately and sufficiently analyzed in the Master EIR, including cumulatively considerable impacts (e.g., traffic, air quality). Therefore, the proposed project would

not add considerably to any cumulative impacts as discussed in each of the Environmental Checklist sections contained in this Initial Study.

c) **Less-than-Significant Impact.** The project would not result in environmental effects that would cause substantial adverse direct or indirect effects on human beings. The project would result in similar land uses for the project site. However, removal of existing houses for construction of parking areas would place vehicles in close proximity to existing residences, which are considered sensitive receptors, could degrade air quality, and increase safety hazards that could directly and indirectly effect human beings. However, the proposed project is consistent with the Master EIR impact analysis and the project would not result in any project-specific environmental effects that would substantially affect, directly or indirectly, human beings beyond the analysis of the Master EIR.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-065

A RESOLUTION FINDING THAT THE PROPOSED AMENDMENT TO THE URBAN AREA GENERAL PLAN AND THE 2006 NON-MOTORIZED TRANSPORTATION PLAN ARE WITHIN THE SCOPE OF THE PREVIOUSLY CERTIFIED URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 19990820) AND THAT, PURSUANT TO SECTIONS 15168(C) AND 15182 OF THE CEQA GUIDELINES, NO NEW ENVIRONMENTAL REVIEW IS REQUIRED.

WHEREAS, a General Plan for the City of Modesto entitled "City of Modesto Urban Area General Plan", was adopted by the City Council by Resolution No. 95-409, on August 15, 1995, and as amended by Resolution No. 2003-122 on March 4, 2003, in accordance with Section 65300 of the Government Code; and

WHEREAS, on March 4, 2003, the City Council of the City of Modesto recertified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan by Resolution No. 2003-123; and

WHEREAS, Government Code Section 65358 permits the amendment of a General Plan up to four (4) times per calendar year; and

WHEREAS, the Modesto Urban Area General Plan has been further amended by Modesto City Council Resolution Nos. 95-584, 96-20, 96-338, 96-639, 97-3, 97-137, 97-158, 98-293, 99-162, 99-564, 2000-303, 2000-633, 2001-47, 2001-476, 2002-154, 2002-526, 2003-101, and 2003-122, copies of which are on file in the office of the City Clerk; and

WHEREAS, the General Plan has not been amended this calendar year; and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact

report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City Council of the City of Modesto has considered an Initial Study, Environmental Assessment No. EA/C&ED No. 2006-44, as described in **Exhibit "1"**, attached hereto and incorporated herein by reference. which concluded that the proposed Amendment to the Urban Area General Plan is within the scope of the previously certified Urban Area General Plan Master Environmental Impact Report (SCH No. 19990820) and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required, and

WHEREAS, by an agenda report to the City Council from the Parks, Recreation and Neighborhoods Department dated December 21, 2006, City staff recommended finding that the proposed Amendment to the Urban Area General Plan and the 2006 Non-Motorized Transportation Plan are within the scope of the previously certified Urban Area General Plan Master Environmental Impact Report (SCH No. 19990820) and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on January 9, 2007, in the Tenth Street Place Chambers located at r1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed finding, and

WHEREAS, on January 9, 2007, the City Council of the City of Modesto held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to the finding that the proposed Amendment to the Urban Area General Plan and the 2006 Non-Motorized Transportation Plan are within the scope of the previously certified Urban Area General Plan

Master Environmental Impact Report (SCH No. 19990820) and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required,

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

1. The proposed General Plan Amendment and Non-Motorized Transportation Master Plan are consistent with the Modesto Urban Area General Plan because they will further a goal of the Urban Area General Plan to promote alternative transportation.

2. A General Plan Amendment is needed to add the roadway designation of "Principal Arterial with Bike Lanes" so as to provide a more comprehensive and better-functioning bicycle transportation system within Modesto.

3. A 45-day public review period for the proposed General Plan Amendment was completed and ended November 8, 2006, pursuant to Government Code Section 65352.

4. The proposed General Plan Amendment and Non-Motorized Transportation Master Plan will help promote bicycling and walking as transportation modes in Modesto.

5. The proposed General Plan amendment and Non-Motorized Transportation Master Plan will reduce traffic by promoting bicycling and walking for transportation and by increasing convenience and safety for people who choose to bicycle and walk.

6. The proposed General Plan amendment and Non-Motorized Transportation Master Plan will improve air quality by increasing convenience and safety for people who choose to bicycle and walk within Modesto.

7. The Project is compatible with surrounding, existing and planned land uses; will reduce traffic impact as compared to the Master EIR; will improve air quality; will have no significant effect on existing and planned open space; and will have no significant effect on existing and planned public facilities and public services.

8. In accordance with Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the Modesto Urban Area General Plan, as amended, and no new environmental document or findings are required by CEQA.

9. There are no substantial changes proposed by the Project which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Master EIR are required.

10. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Master EIR are required.

11. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Master EIR was adopted, which shows any of the following:
    a. One or more significant effects which is not discussed in the Master EIR; or,
    b. Significant effects which were previously examined will be substantially more severe than previously shown; or,

    c. Previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the Project, but the Project proponents decline to adopt the mitigation measure or alternative; or,

    d. Mitigation measures or alternatives which are considerably different from those analyzed in the Master EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

12. The Initial Study, Environmental Assessment EA/C&ED No. 2006-44 provides the substantial evidence to support findings 3-11, noted above.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

Ayes:	Councilmemebers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
Noes:	Councilmembers:	None
Absent:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: _____
SUSANA ALCALA WOOD, City Attorney

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study EA/C&ED No. 2006-44

For the proposed:

Amendment to the Modesto Urban Area General Plan to Add the Roadway Designation of "Principal Arterial with Bike Lanes" and Adopt the 2006 Updated Non-Motorized Transportation Master Plan

Prepared by:
City of Modesto
Parks, Recreation and Neighborhoods Department
September 21, 2006

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Amendment to the Modesto Urban Area General Plan to Add the Roadway Designation of "Principal Arterial with Bike Lanes" and 2006 Updated Non-Motorized Transportation Master Plan is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

This analysis relies upon the City of Modesto's Final Master Environmental Impact Report for the Urban Area General Plan and related amendments to the Urban Area General Plan, certified March 4, 2003 (SCH #1999082041).

II. PROJECT DESCRIPTION

A. Title: Amendment to the Modesto Urban Area General Plan to Add the Roadway Designation of "Principal Arterial with Bike Lanes" and adopt the 2005 Updated Non-Motorized Transportation Master Plan

B. Address or Location: This project is located within the City of Modesto

C. Applicant: City of Modesto Parks, Recreation and Neighborhoods Department

D. City Contact Person: Doug Critchfield, Manager, Parks Planning and Development

Project Manager: Robert Ford, Project Coordinator
Department: Parks, Recreation and Neighborhoods Department
Phone Number: 209.577.5437
E-mail address: bford@modestogov.com

E. Current General Plan Designation(s): Not applicable

F. Current Zoning Classification(s): Various Zones

G. Surrounding Land Uses: North: Existing urban and rural areas
South: Existing urban and rural areas
East: Existing urban and rural areas
West: Existing urban and rural areas

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

This project will consist of amending the Modesto Urban Area General Plan to add the roadway designation of "Principal Arterial with Bike Lanes" and adopt the 2006 updated Non-Motorized Transportation Master Plan. A Bike Lane is defined as a Class II Bikeway, which provides a striped and stenciled lane for one-way travel on a street or highway. Currently, the General Plan allows bike lanes on Collector and Minor Arterial streets but does not allow bike lanes on Principal Arterial Streets. An amendment to the General Plan is needed to provide a roadway designation that allows bike lanes on Principal Arterial Streets where bicycle facilities will be developed. **The text of the General Plan Amendment is included as Exhibit "A" and is attached at the end of this document.** The General Plan Amendment includes revisions to Chapter V, Section B: Circulation and Transportation, and includes revisions to Figure V-1 Circulation and Transportation Diagram.
An update is needed to the 1996 Non-Motorized Transportation Master Plan in order to provide current information about existing conditions and needs. The updated plan will serve as a blue print to be used by City staff and the development community with regard to the type and location of new bicycle and pedestrian facilities in Modesto. **The 2006 Non-Motorized Transportation Master Plan is included as Exhibit "B" and is attached at the end of this document.**

I. Other Public Agencies Whose Approval is Required:

None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. ☒ **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ___ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ___ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	☒	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	☒	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	☒	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: .	☒	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(4)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐
(5)	Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	YES	NO
(1) The project exceeds the Master EIRs traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the Master EIRs program of mitigation measures.	☐	☒

(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒
(4)	Result in inadequate parking capacity.	☐	☒

Discussion:

General Plan Amendment (GPA):

(1) The City Public Works Department, Traffic Division has reviewed the project and determined that the project is within the scope of the Master EIR and no further traffic study is required. The design standard for Principal Arterial with Bike Lanes, as shown in Exhibit 1, provides for six travel lanes with a right-of-way width of 127 feet and a design speed of 45 mph. The design standard for Principal Arterial without bike lanes provides for six travel lanes with a right-of-way width of 114 feet and a design speed of 45 mph. This design standard for Principal Arterials with Bike Lanes follows the guidelines within Caltrans' Highway Design Manual (Chapter 1000) for high-speed, high-volume roads, with a five-foot-wide bike lane shown on either side of the roadway. AASHTO's "Guide for the Development of Bicycle Facilities" also recommends this bike lane width as a design standard for roadways that have the vehicle speeds and volumes. The amendment to the Modesto Urban Area General Plan to add the roadway designation of "Principal Arterial with Bike Lanes" will allow for a more complete bicycle transportation grid system, and is necessary and in line with the intent of the California State Legislature (Streets and Highway Code, Sec. 890) "to establish a bicycle transportation system designed and developed to achieve the functional commuting needs of the employee, student, business person, and shopper as the foremost consideration in route selection, to have the physical safety of the bicyclist and the bicyclist's property as a major planning component, and to have the capacity to accommodate bicyclists of all ages and skills. The capacity and efficiency of the Principal Arterial will not be degraded as a result of implementing this policy under the standards proposed.

(2) The project will not substantially increase hazards due to a design feature. However, it is assumed that the project will facilitate more bicycle traffic, and so, would require both drivers and bicyclists to share the road in a safe manner.

(3 & 4) The project would have not affect emergency access nor vehicle parking.

Updated 2006 Non-Motorized Transportation Master Plan (NMTMP):

(1) Adopting the updated NMTMP will continue the intent of the 1996 Non-Motorized Transportation Master Plan to designate certain existing and planned roadways as Class I, II or III bicycle facilities. The proposed adoption of this NMTMP has the potential to impact automobile traffic operations and with implementation, is intended to decrease the amount of automobile traffic by encouraging more pedestrian and bicycle trips within the City of Modesto The proposed NMTMP will impact drivers in that greater attention will be required to accommodate a higher volume of bicycle riders on surface streets.

(2) The project will not substantially increase hazards due to a design feature. However, it is assumed that the project will facilitate more bicycle and pedestrian traffic, and so, would require drivers, pedestrians and bicyclists to share the road in a safe manner.

(3 & 4) The project would not affect emergency access nor vehicle parking.

The general plan amendment to provide for a new design standard for Principal Arterial with Bike Lanes and the proposed adoption of the NMTMP are consistent with the Traffic and Circulation needs section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-37) are, therefore, still valid.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NO_x by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	☒

(2) The project does not incorporate the best management practices for PM_{10} reduction established by the SJVUAPCD. ☐ ☒

(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan. ☐ ☒

(4) The project would expose sensitive receptors to substantial pollutant concentrations. ☐ ☒

(5) The project would create objectionable odors affecting a substantial number of people. ☐ ☒

Discussion:

GPA:
(1) Based on the City Traffic Engineer's analysis of the proposed General Plan Amendment's effect on Principal Arterials and other roadways level of service and capacity, the proposed project will not increase vehicular volume or speed, will have minimal impact on vehicular traffic operations and will not cause additional traffic-related impacts to air quality beyond those described within the Degradation of Air Quality section of the MEIR.

(2) The project is intended to reduce vehicular traffic and resultant pollutant emissions. One-time impacts to air quality would occur during construction of facilities, and regulations for control of fugitive dust as dictated by the San Joaquin valley unified Air Pollution control District would be adhered to by the contractor.

(3, 4, 5)The project will not negatively affect air-quality policies of the Modesto Urban Area General Plan, will not create any objectionable odors or create any substantial pollutant concentrations. Instead, the project is intended to reduce pollutant concentrations

NMTMP:
(1) The proposed NMTMP has the potential to facilitate more non-motorized modes such as walking and biking, and therefore, would reduce auto trips and improve air quality.

(2) One-time impacts to air quality during construction would be mitigated as described in the paragraph, above.

(3, 4, 5)The project will not negatively affect air-quality policies of the Modesto Urban Area General Plan, will not create any objectionable odors or create any substantial pollutant concentrations. Instead, the project is intended to reduce pollutant concentrations

The existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages IV-2-1 through IV-2-5) are, therefore, still valid.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☒
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	☒

Discussion:

GPA:
(1) The project will facilitate additional bicycle trips, resulting in lowering noise levels due to a reduction in automobile trips. The Modesto noise ordinance and its standards for noise level and hours of operation will not be exceeded due to this project.

(2) The project has the potential to reduce auto traffic noise and not contribute to any significant increase in noise. The Modesto noise ordinance and its standards for noise level and hours of operation will not be exceeded due to this project.

(3) The project will put more bicycles onto Principal Arterial streets, removing some vehicle trips from the same streets. There will be no increase in ambient noise levels in the project vicinity.

(4) Construction activity associated with bike lanes will result in a temporary increase in ambient noise levels in the project vicinity, but will be mitigated with controlled hours of construction, exhaust mufflers on equipment.

NMTMP:
(1) The project will result in lowering noise levels in that there will be a reduction in automobile trips because of the alternate trips taken by bicycle or by walking. The Modesto noise ordinance and its standards for noise level and hours of operation will not be exceeded due to this project.

(2) Since this is a master plan for non-motorized transportation, the net effect of the project will be to reduce auto traffic noise by a very small amount. With approval of the GPA, the NMTMP will be consistent with the Modesto Urban Area General Plan.

(3) The project will improve modes of transportation involving bicycling and walking. Therefore, there will not be a significant increase in ambient noise levels to the project vicinity above the existing levels.

(4) Construction activity associated with bike lanes will result in a temporary increase in ambient noise levels in the project vicinity, but will be mitigated with controlled hours of construction, exhaust mufflers on equipment.

Because the City's Traffic Engineer has determined that there would not be a significant increase in traffic impacts, the proposed amendment to the General Plan and adoption of the 2006 NMTMP will not cause an increase in the projected generation of traffic-related noise for this area. Therefore, the project will not create additional significant effects and the Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are still valid.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	☒
(3)	The project will conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	☒
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use.	☐	☒

Discussion:

GPA:
(1) The project will allow the installation of bike lanes to Principal Arterial streets within new or expanding areas of the Modesto Urban Area.

(2-3) The project will not result in development of land outside the March 2003 planning area boundaries and will not conflict with existing agricultural use or Williamson Act contract, due to project not being considered growth-inducing.

(4) The project will accompany the construction of paved roadways in planned growth areas, and will not directly result in conversion of farmland to non-farm uses.

NMTMP:
(1) The project will be consistent with the Modesto Urban Area General Plan, but could result in a small increase in development density, if adjacent densities remain consistent with current development densities, and additional roadway is required to be dedicated toward bike lanes or bike paths.

(2-4) The project will not directly result in any land development outside the March 2003 planning area boundaries and will not conflict with existing zoning or Williamson Act contracts. The project could involve the conversion of additional roadway area to non-motorized use, as compared with roadway, only.

The improvements proposed by the amendment to the General Plan and by the adoption of the 2006 NMTMP will not substantially change the size or configuration of roadway facilities, and will not remove any additional agricultural lands from production not already analyzed by General Plan Master EIR. Therefore, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through V-4-16) are still valid.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	☒

Discussion:

GPA & NMTMP:
(1 & 2) The improvements proposed by the amendment to the General Plan and by the adoption of the 2006 NMTMP would not result in any demand on existing water supplies. Thus the project would not require additional water supplies beyond that identified in the Increased Demand for Water Supplies section of the MEIR for the General Plan. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-13) are, therefore, still valid.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

(2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. ☐ ☒

Discussion:

GPA & NMTMP:
(1 & 2) The improvements proposed by the amendment to the General Plan and by the adoption of the 2006 NMTMP will not increase the City population. Thus, the project will not create any increase in demand for sewer capacity not identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages V-6-1 through V-6-12) are, therefore, still valid.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	☒
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☒

Discussion:

GPA:
(1) The improvements proposed by the amendment to the General Plan will not result in expansion of urban development. The proposed amendment will result in the roadway designation of Principal Arterial roadways with bike lanes being consistent with the General Plan.

(2 & 3) The project will not have a significant effect on special status species, nor conflict with any local policy or ordinance such as the General Plan Policy that protects riparian areas.

NMTMP:
(1) The project will provide for Class II and III bicycle improvements within new or expanded roadways, and will provide for off-roadway Class I Bike Pathways. The net result of these improvements may tend to decrease urban densities if Class I pathways and associated parks and green belts accompany the development. However, these improvements will tend to follow urban development and will be consistent with the Modesto Urban Area General Plan

(2 & 3) The project would have no impact to sensitive wildlife or any plant habitat beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages V-7-1 through V-7-29) are, therefore, still valid.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	☒

Discussion:

GPA:
(1) & (2): The improvements proposed by the GPA are consistent with the General Plan policy to protect riparian areas along the Dry Creek and Tuolumne River Corridors. The project will not disturb any archaeological sites that have been identified in the Disturbance of

Archaeological and Historic Sites section of the MEIR. The project does not propose to involve the modification or demolition of any qualifying structure over 50 years in age.

NMTMP:
(1) & (2): The improvements proposed by the NMTMP include bike and hiking trails along the creek and river corridors within the city. All improvements will be consistent with the General Plan policy to protect riparian areas along the Dry Creek and Tuolumne River Corridors. The project will not disturb any archaeological sites that have been identified in the Disturbance of Archaeological and Historic Sites section of the MEIR. The project is not expected to involve the modification or demolition of any qualifying structure over 50 years in age.

The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological and Historic Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the

project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site.	☐	☒
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

GPA:
(1) The improvements proposed by the GPA would not significantly increase the demand on the storm water drainage system, which is expected to accommodate the small increase in run-off associated with additional pavement.

(2& 3) All projects associated with the GPA will be required to meet local standards for storm drainage and will not result in an increase in the rate or amount of surface runoff in a manner that would result in flooding on- or off-site.

NMTMP:
(1) The improvements proposed by the NMTMP would not significantly increase the demand on the storm water drainage system. Storm water drainage facilities are designed to accommodate run-off, based upon required improvements.

(2) All projects associated with the NMTMP will be required to meet local standards for storm drainage and will not result in a significant increase in the rate or amount of surface runoff that would result in flooding on- or off-site.

(3) Projects associated with the 2006 NMTMP that involve paving for Class II or Class I facilities will result in a small increase in storm runoff, but new storm drainage facilities will be designed to accommodate run-off, based upon required improvements.

Improvement proposed by the GPA and the NMTMP would cause no significant increase in demand for storm drainage that was not already addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are, therefore, still valid.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	☒
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

GPA:
(1, 2) All projects associated with the GPA will be required to meet local standards for storm drainage and will not result in an increase in the rate or amount of surface runoff in a manner that would result in flooding on- or off-site. The project complies with the requirements of the federal Clean Water Act.

(3) The GPA will comply with the City of Modesto's Guidance Manual for New Development Storm Water Quality Control Measures and with the General Plan policies for handling storm water in Planned Urbanizing Areas, including Section 3.b. on page V-16, which requires positive storm drainage system for new development, and Section 3.c., which requires storm water recharge to groundwater of 80 percent of average annual runoff.

(4) Runoff from paved areas carries some pollution from the pavement, none expected from bike and pedestrian traffic. The small increase is not expected to exceed the capacity of existing drainage facilities, and new facilities would be designed to accommodate expected run-off volumes.

NMTMP:
(1, 2) All projects associated with the NMTMP will be required to meet local standards for storm drainage and will not result in an increase in the rate or amount of surface runoff in a manner that would result in flooding on- or off-site. The project complies with the requirements of the federal Clean Water Act.

(3) The NMTMP will comply with the City of Modesto's Guidance Manual for New Development Storm Water Quality Control Measures and with the General Plan policies for handling storm water in Planned Urbanizing Areas, including Section 3.b. on page V-16, which requires positive storm drainage system for new development, and Section 3.c., which requires storm water recharge to groundwater of 80 percent of average annual runoff.

(4) Run-off from paved areas carries some pollution from the pavement, none expected from bike and pedestrian traffic. The small increase is not expected to exceed the capacity of existing drainage facilities, and new facilities would be designed to accommodate expected run-off volumes.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to the Project.

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

GPA:
(1) The improvements proposed by the amendment to the General Plan would improve non-motorized access to the City's parks and parkways, possibly resulting in an increase in park use. Impacts on parks and open space will be less than significant. The project is consistent with the Modesto Urban Area General Plan

NMTMP:
(1) Class I facilities would contribute to recreational opportunities within the city. The project is consistent with the Modesto Urban Area General Plan.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As

long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of. Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant; project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	☒

Discussion:

GPA:
(1, 2) Improvements shown on Figure V-1, would be developed in conjunction with new development proposals, but would not result in new development.

NMTMP:
(1, 2) Construction of any of the projects mentioned within the 2006 NMTMP within new development areas would generally be associated with the generation of new population that would increase demand for use of school facilities. The project improvements would not increase population, nor result in any significant increase to demand on school facilities. Thus the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages V-12-1 through V-12-11) are, therefore, still valid.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

GPA & NMTMP:

(1) The improvements proposed by the amendment to the General Plan and by the adoption of the 2006 NMTMP project are all within the current City boundaries and would not change

the gross acreage, land use designations or infrastructure of the General Plan. . There will be a small increase to service demand for policing, due to the increase in trail and bike lane rider-ship, walking and other non-motorized means of transportation.

(2) The project will result in a small increase in demand for police services, associated with new growth areas. The Urban Area General Plan policy requiring a long-range financing strategy for each Comprehensive Plan Area will allow the City to provide for the resources and funding necessary to extend Police services. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages V-13-1 through V-13-7) are, therefore, still valid.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section V, Mitigation Measures Applied to Project:

Discussion:
The project will add no significant impacts beyond those identified in the Master EIR, therefore no mitigation is required.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

GPA & NMTMP:
(1) City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

(2) The improvements proposed by the amendment to the General Plan and by the adoption of the 2006 NMTMP will result in a small increase in demand for Fire Protection services, associated with new growth areas. The Urban Area General Plan policy requiring a long-range financing strategy for each Comprehensive Plan Area will allow the City to provide for the resources and funding necessary to extend Fire Protection services. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages V-13-1 through V-13-7) are, therefore, still valid.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: Since the project would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	☒

Discussion:

GPA & NMTMP:
(1 & 2) The improvements proposed by the amendment to the General Plan and by the adoption of the 2006 NMTMP project are all within the current City boundaries and would not change the gross acreage, land use designations, infrastructure or circulation system of the General Plan, and would not cause any increase in generation of solid waste. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages V-15-1 through V-15-10) are, therefore, still valid.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	☒
(3)	The project contains a contaminated site not identified as of March 2003.	☐	☒
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	☒
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	☒

Discussion:

GPA & NMTMP:

(1) The improvements proposed by the amendment to the General Plan and by the adoption of the 2006 NMTMP project are all within the current City boundaries and would not cause a significant increase in generation of Hazardous Materials. The Existing Conditions, Impacts analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages V-16-1 through V-16-14) are, therefore, still valid.

(2) Since any new development will be required to implement the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan, the project does comply with all applicable federal, state and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.

(3) The project does not contain a contaminated site as of May, 2006.

(4) The project will include construction with asphalt and asphaltic emulsion materials, typical with road paving activities, near residential, commercial and school facilities. Best practices will be employed by all paving contractors for the handling, storage, and disposal of these materials, as per City of Modesto Standard Specifications and the California Dept. of Transportation (Caltrans).

(5) The improvements proposed by the GPA and the adoption of the NMTMP project are all within the current City boundaries. The project will not be located on a site, which is included on a list of hazardous materials sites complied pursuant to Government Code Section 65962.5 and as a result, will not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These

are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	☒

Discussion:

GPA & NMTMP:
(1 & 2) The improvements proposed by the amendment to the General Plan and by the adoption of the 2006 NMTMP project are all within the current City boundaries and would not change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. The MEIR analysis shows that because the land is essentially flat, Uniform Building Code requirements have been addressed, and the nearest earthquake fault line is over 15 miles west of the Modesto Urban Area, there will be no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Landslide and Seismic Activity (pages V-17-1 through V-17-12) are, therefore, still valid.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

GPA & NMTMP:
(1) The improvements proposed by the amendment to the General Plan and by the adoption of the 2006 NMTMP project are all within the current City boundaries and would not change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Thus, the project is consistent with the analysis in the General Plan MEIR. Utility companies serving the Modesto Urban Area indicated, during MEIR preparation, have stated that development of the urban area would result in a less than significant impact on demands for energy. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the

MEIR for Energy (pages V-18-1 through V-18-7) are, therefore, still valid. Mitigation Measures for air quality and traffic would also help to mitigate energy impacts.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	☒
(3)	The project would physically divide an established community	☐	☒

Discussion:

GPA & NMTMP:

(1-3) The proposed project is consistent with the General Plan and does require a minor amendment to the General Plan to add a road designation of 'Principal Arterial with Bike Lanes'. The project would not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

(2) The project would have a substantial adverse effect on a scenic vista. ☐ ☒

(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings. ☐ ☒

(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. ☐ ☒

Discussion:

GPA:

(1) The improvements proposed by the GPA are all within the current City boundaries and would be consistent with the Modesto Urban Area General Plan. The addition of bicycle lanes is consistent with the General Plan as a non-motorized form of transportation.

(2) The improvements proposed by the GPA may be adjacent to an existing scenic vista. Bike lanes would add bike riders to a roadway and would have minimal adverse impact to one's visual experience of a scenic vista.

(3) The project will not substantially degrade the existing visual character or quality of the City of Modesto. Non-motorized transportation bike lanes are essentially flat surfaces, with occasional directional and informational signage above grade.

(4) Although the GPA will construct some additional paving associated with bicycle lanes, there will be no additional source of lighting beyond that of typical street lighting.

NMTMP:

(1) The improvements proposed by the NMTMP are all within the current City boundaries and would be consistent with the Modesto Urban Area General Plan. The addition of bicycle lanes and is consistent with the General Plan as a non-motorized form of transportation.

(2) The improvements proposed by the NMTMP may pass through (bike path) or be adjacent to (bike lane) an existing scenic vista. The impact of a bike path within a scenic corridor, where a scenic vista may be enjoyed, would be considered a minimal adverse effect due to lack of many above-ground facilities associated with the path.

(3) The project will not substantially degrade the existing visual character or quality of the City of Modesto. Class I and Class II bike facilities are essentially flat surfaces, with occasional directional and informational signage above grade

(4) The NMTMP will construct some additional paving for Class I and Class II bike facilities, street and pathway lighting. Pathway lighting would be under 12-feet in height, shielded and designed to prevent glare into surrounding neighborhoods. Street lighting would typically be mounted on 25-foot poles, would primarily serve the street and neighborhood, and would be equipped to prevent glare into the neighborhoods. Therefore, the project will not create substantial light and glare which could adversely affect day or nighttime views in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1(c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study.

A Mitigated Negative Declaration/EIR shall be prepared for the project and the following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation Measures:

None.

Air Quality Measures:

None.

Noise Measures:

None.

Agricultural Land Measures:

None.

Water Supply Measures:

None.

Sanitary Sewer Service Measures:

None.

Sensitive Wildlife and Plant Habitat Measures:

None.

Archaeological or Historic Sites Measures:

None.

Storm Drainage Measures:

None.

Flooding and Water Quality Measures:

None.

Parks and Open Space Measures:

None.

Schools Measures:

None.

Police Services:

None.

Fire Services:

None.

Generation of Solid Waste

None.

Generation of Hazardous Materials

None.

Potential for Landslides and Seismic Activity

None.

Energy

None.

Planning and Land Use

None.

Aesthetics

None.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-066

A RESOLUTION APPROVING AN AMENDMENT TO CHAPTER V OF THE MODESTO URBAN AREA GENERAL PLAN TO ADOPT CHANGES TO THE CIRCULATION AND TRANSPORTATION ELEMENT AND DIAGRAM.

WHEREAS, a General Plan for the City of Modesto entitled "City of Modesto Urban Area General Plan", was adopted by the City Council by Resolution No. 95-409, on August 15, 1995, and as amended by Resolution No. 2003-122 on March 4, 2003, in accordance with Section 65300 of the Government Code; and

WHEREAS, on March 4, 2003, the City Council of the City of Modesto recertified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan by Resolution No. 2003-123; and

WHEREAS, Government Code Section 65358 permits the amendment of a General Plan up to four (4) times per calendar year; and

WHEREAS, the Modesto Urban Area General Plan has been further amended by Modesto City Council Resolution Nos. 95-584, 96-20, 96-338, 96-639, 97-3, 97-137, 97-158, 98-293, 99-162, 99-564, 2000-303, 2000-633, 2001-47, 2001-476, 2002-154, 2002-526, 2003-101, and 2003-122, copies of which are on file in the office of the City Clerk; and

WHEREAS, the General Plan has not been amended this calendar year; and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, on January 9, 2007, by Resolution No. 2007-065, the City Council of the City of Modesto considered an Initial Study, Environmental Assessment No. EA/C&ED No. 2006-44, which concluded that the proposed Amendment to the Urban Area General Plan (the "Project") is within the scope of the previously certified Urban Area General Plan Master Environmental Impact Report (SCH No. 19990820) and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required, and

WHEREAS, by an agenda report to the City Council from the Parks, Recreation and Neighborhoods Department dated December 21, 2006, City staff recommended approval of the proposed amendment to the Modesto Urban Area General Plan, as described in **Exhibit "1",** attached hereto and incorporated herein by reference, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on January 9, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to the Modesto Urban Area General Plan, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the proposed Amendment to the Urban Area General Plan as described in Exhibit "1", attached hereto and incorporated herein by reference.

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

1. The proposed General Plan Amendment is consistent with the Modesto Urban Area General Plan because it will further a goal of the Urban Area General Plan to promote alternative transportation.

2. A General Plan Amendment is needed to add the roadway designation of "Principal Arterial with Bike Lanes" so as to provide a more comprehensive and better-functioning bicycle transportation system within Modesto.

3. The proposed General Plan Amendment will help promote bicycling and walking as transportation modes in Modesto.

4. The proposed General Plan amendment will reduce traffic by promoting bicycling and walking for transportation and by increasing convenience and safety for people who choose to bicycle and walk.

5. The proposed General Plan amendment will improve air quality by increasing convenience and safety for people who choose to bicycle and walk within Modesto.

6. The Project is compatible with surrounding, existing and planned land uses; will reduce traffic impact as compared to the Master EIR; will improve air quality; will have no significant effect on existing and planned open space; and will have no significant effect on existing and planned public facilities and public services.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on 9th day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

Councilmembers:	Ayes:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
Councilmembers:	Noes:	None
Councilmembers:	Absent:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: _____
SUSANA ALCALA WOOD, City Attorney

CHAPTER V

COMMUNITY SERVICES AND FACILITIES

A. INTRODUCTION

Chapter V, Community Facilities and Services, describes the community services and infrastructure needed to support the physical community developed through Chapter III.

The policies in this Chapter provide guidance for conformance with Article 7 of the Government Code (Administration of General Plans), particularly Section 65401 (Review of Public Works Projects for conformity with the Plan) and Section 65402 (Acquisition and Disposal of Real Property).

The distinctions between Community Services and Community Facilities are not critically important; they are distinguished in this Chapter for categorical purposes only. The important issue is that both Services and Facilities, as Community Infrastructure, are provided concurrent with need, to support the physical development, and ongoing maintenance, of the community. For this reason each of the Sections below are tailored for use in either the Baseline Developed Area, or the Planned Urbanizing Area, as those concepts are defined in Chapter II, Community Growth Strategy.

B. CIRCULATION AND TRANSPORTATION

1. Overview

The Circulation Element was first required by state law in 1955 (Government Code Section 65302(b)). Its purpose was to develop a balanced, multi-modal transportation system, within local jurisdictions. Modesto has discussed circulation in the early General Plans of 1959 and 1965. In 1974 a combined Land Use and Circulation Elements to the Modesto Urban Area General Plan was adopted. In 1986, the Circulation Element updated the circulation portion of the 1974 Land Use and Circulation Elements.

This Section presents, as required by Section 65302(b) of the Government Code, "the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan [Chapter III of this General Plan]."

2. Circulation and Transportation Diagram

Figure V-1 presents the Circulation and Transportation Diagram which describes the proposed general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public facilities within the Modesto Urban Area. The Diagram conforms to Section 65302(b) of the Government Code, and is hereby adopted and incorporated into the Modesto Urban Area General Plan.

Street designations outside the General Plan boundary shown in Figure V-1 are illustrative only, and subject to the other jurisdictions.

The word "Diagram" is distinguished from "Map" in the context of a California Attorney General Opinion (67 OPS.CAL.ATTY.GEN.75 (3/7/84)), to provide a certain limited degree of flexibility in applying the Circulation and Transportation Designations to specific streets.

3. Circulation and Transportation Designations (shown on Diagram)

With the exception of local streets, the following Designations, along with typical right-of-way requirements, are presented on the Circulation and Transportation Diagram. These Designations conform to Section 65302(b) of the Government Code, and are hereby adopted and incorporated into the Modesto Urban Area General Plan.

a. Freeway - This classification defines the highest volume, total access-control highways with high design speeds (55-65 mph). Freeways are an important part of the transportation network for urban, inter-city, and inter-regional movement of people and goods.

b. Expressways - This classification defines high volume, access-controlled roadways which do not allow for pedestrian or bicycle movements in the traveled way. The location, class, and number of lanes for expressway alignments are shown in the Circulation and Transportation Diagram, Figure V-1. In addition, Figure V-2 presents expressway design features which should be incorporated into the construction of future expressways.

(1) "Class A" Expressway is an access-controlled roadway with design speeds of 50-55 mph. The typical right-of-way is 110 or 135 feet (4 or 6 lanes, respectively) between intersections and 175 or 300 feet at interchanges (4 or 6 lanes, respectively).

(2) "Class B" Expressway is defined as a partial access-controlled roadway with signalized intersections at major streets and right-turn-only access to collector streets. The design speed will be 45-50 mph. The typical right-of-way is 110 or 135 feet (4 or 6 lanes, respectively) between intersections and 134 or 159 feet at intersections (4 or 6 lanes, respectively).

State Highway 219 (Kiernan Avenue, between Highway 99 and McHenry Avenue) will be a Class B expressway, with a right-of-way of 181 feet as specified by Caltrans.

(3) "Class C" Expressway is defined as a limited access-controlled roadway. The design speed is 40-45 mph. The typical right-of-way is 110 or 135 feet between intersections (4 or 6 lanes, respectively) and 134 or 159 feet Note: Class B or C Expressways on limited rights-of-way may be 100 feet for four lanes and 124 feet for six lanes, respectively.

c. Arterial Streets - This classification defines moderate-to high-volume streets with a primary function of providing mobility and a secondary function of land access. Arterial streets serve the major centers of activity of the urban area and provide mobility of people and goods. There are two classes of arterial streets:

(1) ~~(1)~~ Principal Arterial streets have six travel lanes with no bicycle lanes. The design speed is 45 mph. The typical right-of-way is 114 feet.

(2) Principal Arterial With Bike Lane streets have six lanes with bicycle lanes. The design speed is 45 mph. The typical right-of-way is 127 feet.

(~~3~~2) Minor Arterial streets have four travel lanes. Minor arterials can provide for bicycle lanes. The design speed is the same as principal arterials. The typical right-of-way is 100 feet.

d. Collector Streets - This classification defines low-traffic-volume streets which can also serve pedestrian and bicycle traffic. Collector streets provide traffic circulation within residential neighborhoods, and commercial and industrial areas.

Collector streets distribute trips from the arterials through the area to their ultimate destination and collect traffic from local streets and channel it into the arterial streets. There are two classes of collector streets:

(1) A major collector street is a four-lane facility, with a design speed of 25-35 mph on a typical right-of-way of 84 feet without bicycle lanes or 96 feet with two, 6-foot bicycle lanes.

(2) A minor collector street is a two-lane facility, with a design speed of 25-30 mph on a typical right-of-way of 60 feet without bicycle lanes or 72 feet with two, 6-foot bicycle lanes.

e. Local Streets - This classification applies to low-volume streets which are two-lane roadways. Local streets primarily permit direct access to abutting land uses and connections to the higher order roadways. Local streets offer the lowest level of mobility and usually contains no bus routes. The right-of-way should be narrow enough, and design speeds low enough, to discourage through traffic.

4. Policies Relating to Street Designations

a. State Highway - This classification defines any street which is acquired, laid-out, constructed, improved or maintained as a state highway pursuant to constitutional or legislative authorization. The street can be a freeway, expressway, arterial or other roadway classification. The right-of-way, design and construction on a State Highway should follow state standards. The improvement and addition of freeway interchanges should be made when required by future traffic demands.

b. Streets in Comprehensive Plans - Any Comprehensive Plan may experiment with differing rights-of-way and cross sections for the five Circulation and Transportation Designations.

c. Expressways – The City's General Plan provides for a system of expressways throughout the City. The City will continue to include these expressways in its Circulation and Transportation plan and to implement them in cooperation with the development community according to applicable design standards.

1. The City shall regulate and limit the number and design of expressway access locations in order to ensure the overall operational viability of expressways in the community.

2. Any consideration of access to expressways shall be contingent on the ability of an applicant to provide a properly designed solution consistent with the adopted City standard specifications for access to Class B or Class C expressways. The City Engineer may approve variations and deviations from adopted standard specifications pursuant to section 7-1.701(I)(2) of the Municipal Code. Consideration of a variation and/or deviation from adopted standard specifications shall be subject to environmental review pursuant to the California Environmental Quality Act (CEQA).

3. Any access to expressways from private parcels shall be at the sole expense of the private party, including any reconstruction of the expressway which may be necessitated.

4. The City may allow expressway access along either Class B or Class C expressways to non-residential uses on a case-by-case basis when conditions A and B are met, or condition C is met or condition D is met as noted below:

A. When an applicant demonstrates to the City Council's satisfaction that economic purposes are clearly restricted by denial of access to a particular parcel.

B. When an applicant demonstrates to the City Council's satisfaction that there are either no or only highly restrictive alternative access solutions available to a particular parcel under consideration.

C. For infill site developments, when an applicant demonstrates to the City Council's satisfaction that the economic benefits derived from development of the remnant parcel overrides the need to limit access to that parcel.

D. It is recognized that City of Modesto emergency facilities, such as police and fire stations, will be located from time to time on expressways, and further, that direct access is desirable. In these cases, direct access is allowed and shall be designed in cooperation with the Engineering and Transportation Department. Said design shall have City Council approval prior to implementation.

5. The City shall adopt access management guidelines and design standards for expressway access. The purpose of the guidelines and design standards is to provide safe ingress and egress to adjacent parcels while at the same time not degrading the carrying capacity, flow and efficiency of the expressway. Such access management guidelines and design standards conform to design criteria and standards as set forth by the American Association of State Highway and Transportation Officials (AASHTO).

5. Circulation and Transportation Policies - Overall

a. The streets and highways system should be coordinated with Caltrans', the County's, and other jurisdictions' existing facilities and plans. The adoption of a regional expressway system by Stanislaus Council of Governments (StanCOG) should be supported, and the components of the regional system which lie within the City's Sphere Of Influence should be incorporated into the City's Circulation and Transportation Diagram. The expressway system should be designed to accommodate mass transit.

b. Transportation Control Measures (TCMs) should be implemented where feasible or mandated by other agencies, to reduce vehicle miles traveled, vehicle idling, or traffic congestion. Alternatives to the drive-alone auto mode, such as mass transit, ride sharing, non-motorized transportation, and telecommuting should be encouraged. In addition, the City should encourage innovative means to reduce traffic congestion and enhance air quality, such as teleconferencing centers, fiber optic communication networks, development of the Non-Motorized Transportation System as outlined in the 2006 Non-Motorized Transportation Plan figures 5.1 and 5.2 and trip reduction programs.

c. Transportation Demand Management (TDM) measures will be encouraged to directly affect trip makers' choice of travel mode and the routes and time of day for trips. Transportation Demand Management has as its purpose the reduction in the number of vehicle trips being made on the street network. Typical types of TDM measures would be promotion of transit, car pooling or van pooling, non-motorized transportation, and pricing of parking to make these alternative modes of transportation more attractive and cost competitive.

~~d.~~ The City hereby defines and authorizes the use of a "Plan Line." The Plan Line is a ~~process which~~process that specifically defines the location of center lines, alignments, rights-of-way, cross-sections and intersections for future or proposed ~~roadways~~roadways and non-motorized transportation right-of-ways. The purpose of a Plan Line is to provide adequate right-of-way for future growth needs and to protect the right-of-way from encroachment. Adopted Plan Lines shall be incorporated into development plans to define specific requirements for dedicating the right-of-way for street purposes and to implement Circulation and Transportation Policies of the General Plan.

e. The highest possible levels of traffic service should be maintained on City roadways, consistent with the financial resources reasonably available to the City and without unreasonably burdening property owners or developers with excessive roadway improvement costs.

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Data from the General Plan Traffic Analysis, described in The Traffic Appendix of the Master Environmental Impact Report, as updated from time-to-time, shall be utilized to evaluate the effectiveness of traffic mitigation measures adopted by the City Council.

f. Where safety and traffic operations are not compromised, in-fill and redevelopment projects will be exempted from the City's street width and right-of-way standards if those standards exceed the original standards under which the adjacent streets were constructed. This exemption shall not apply to other street improvement standards, such as, but not limited to, drainage, structural requirements, curbs, gutters, sidewalks, and lighting. This exemption shall not apply on State Highways or where Plan Lines have been adopted.

g. The City's circulation system should facilitate a rapid response by emergency vehicles and should accommodate school buses. Factors should include adequate road widths and corner radii in street designs to ensure that the appropriate fire equipment and school buses can negotiate City streets.

h. Development should be designed in a way that will encourage walking as an alternative mode to the automobile for transportation. Safe and convenient pedestrian facilities should be provided in residential, commercial and other areas when necessary.

i. ~~The use of the bicycle~~Non-motorized transportation, such as the bicycle, shall be promoted as an alternative mode of transportation. An adequate and safe ~~bicycle~~ non-motorized transportation system ~~should~~ shall be provided to connect residential areas with shopping and employment areas in and adjacent to the City for present and future transportation needs. Right-of-way for ~~bicycle~~non-motorized usage ~~should~~ shall be considered in the planning of new streets and in street improvements. Facilities for mode transfer from ~~bicycle~~ non-motorized to park-and-ride lots, transit, and rail ~~should~~ shall be considered and provided when necessary.

j The City should encourage the effort to make a safe, efficient and effective rail service possible by increasing the frequency, speed, and comfort of its passengers. The City recognizes and encourages a safe and convenient interface among rail, bus, automobile and non-motorized traffic. The following forms of rail service are particularly encouraged:

k. "In the case of a conflict between motorized and non-motorized transportation modes, roadway and right-of-way features will be added or altered to protect pedestrians and bicyclists, as well as provide for improved safety for motorized traffic consistent with Urban Area General Plan goals."

(1) Amtrak. The City supports the relocation of the Riverbank Station to Modesto on the north side of Parker Road.

(2) Inter-regional Rail Service. The City supports the rerouting of the San Joaquin's rail service to serve the downtown area and the intermodal facilities and creation of passenger commute rail service from Modesto to San Joaquin County, then to Sacramento and over the Altamont Pass to the Bay Area.

(3) Light Rail Transit. The City should support a light rail transit system when the urban form warrants it and where it is feasible. Mass transit, including light rail, should be considered for the Virginia Avenue corridor of the Union Pacific rail lines, to connect downtown with future commercial and industrial development in the northern portion of the Modesto Urban Area.

(4) Freight Rail. The City encourages the extended and increased use of rail as an alternative transportation mode for the movement of goods. In addition, the City supports the intermodal linkage of "truck on rail" as a technique for reducing through-truck traffic on highway corridors.

(5) Any necessary crossings of the Santa Fe Railroad corridor shall be closely coordinated with the Atchison, Topeka and Santa Fe Railway Company. In 1995, the AT&SF Company indicated that it would oppose at-grade crossings, but would cooperate fully with the construction of any grade separations over or under Santa Fe's rail line.

k. Neighborhood street networks will be provided in new development, which permit local trips to be completed as much as possible without the use of collector streets and arterial streets.

l. The City should carry out a citywide transportation improvement plan to accommodate peak hour traffic flow on arterial streets and major collector streets. This plan may include additional lanes, striping, and turning pockets.

m. The City will work with Caltrans to promote the application of advanced technology to help manage congestion, and enhance roadway capacity and safety. Known as "Intelligent Transportation Systems" (ITS), the program includes the following components:

(1) Advanced Traffic Management Systems (ATMS), which maximize capacity of the transportation system, and involves using technology to manager traffic

flow, disseminate real-time travel information to travelers, improving emergency response, and coordinate inter-agency traffic management.

(2) Advanced Traveler Information Systems (ATIS), which provides on-board navigation that can provide congestion and accident information and alternative travel routes.

(3) Commercial Vehicle Operation (CVO), which restricts commercial vehicles from operating during commute peak hours, and helps transportation companies track their vehicles.

(4) Advanced Vehicle Control Systems (AVCS), which use on-board and in-road guidance systems to optimize vehicle speed and movement.

n. The City shall develop guidelines for private property access to the expressway, arterial and collector street system. These guidelines will provide for reasonable, safe and coordinated driveway access while maintaining smooth and safe traffic flow along the City's major streets. These guidelines will address the number, location, design and operation of driveways for each class of roadway.

o. The City shall provide a balanced, feasible and well-maintained system of transportation for motorized and non-motorized modes.

p. The City of Modesto Non-Motorized Transportation Master Plan (updated 2006) provides guidelines and policies that pertain to the development of the non-motorized transportation system, and is a critical reference document which should be relied upon in the development of the City's circulation system. The City of Modesto Non-Motorized Transportation Master Plan (updated 2006) figures 5.1 and 5.2 are hereby adopted and incorporated into the Modesto Urban Area General Plan as sheet numbers 3 & 4 of Figure V-1, Circulation and Transportation Diagram.

6. Circulation and Transportation Policies - Redevelopment Area and Baseline Developed Area

a. Individual development projects that could affect conditions on traffic facilities predicted by the General Plan Traffic Analysis to achieve LOS "D" or better in the year 2025 (as shown in the Traffic Appendix of the Master EIR) cannot cause, without further study, conditions to be worse than LOS "D" at any time prior to the year 2025. If implementation of this Level of Service is impractical or infeasible, subsequent environmental review, including a Comprehensive Traffic Study, will be required.

The subsequent environmental review may take the form of:

(1) A mitigated negative declaration, if feasible mitigation measures or alternatives will be incorporated to avoid the worsening of the LOS standards

presented in the Traffic Appendix of the Master EIR. (Section 21157.5(a) of CEQA.)

(2) A Focused EIR, if mitigation measures cannot avoid the worsening of the LOS Standards presented in the Traffic Appendix of the Master EIR. (Section 21157.5(b) of CEQA.)

The Comprehensive Traffic Study shall include appropriate measures to update the General Plan Traffic Analysis for all subsequent Comprehensive Plans, and for development within the affected Baseline Developed Area and Redevelopment Area.

b. Individual development projects that could affect conditions on traffic facilities predicted by the General Plan Traffic Analysis to achieve LOS "E" (as shown in the Traffic Appendix of the Master EIR) shall not, without further study, cause conditions on those facilities to exceed LOS "E" at any time prior to the year 2025. If implementation of this Level of Service is impractical or infeasible, subsequent environmental review, including a Comprehensive Traffic Study, will be required.

The subsequent environmental review may take the form of:

(1) A mitigated negative declaration, if feasible mitigation measures or alternatives will be incorporated to avoid the worsening of the LOS standards presented in the Traffic Appendix of the Master EIR. (Section 21157.5(a) of CEQA.)

(2) A Focused EIR, if mitigation measures cannot avoid the worsening of the LOS Standards presented in the Traffic Appendix of the Master EIR. (Section 21157.5(b) of CEQA.)

The Comprehensive Traffic Study shall include appropriate measures to update the General Plan Traffic Analysis for all subsequent Comprehensive Plans, and for development within the affected Baseline Developed Area and Redevelopment Area.

c. Individual development projects that could affect conditions on traffic facilities predicted by the General Plan Traffic Analysis to achieve LOS "F" (as shown in the Traffic Appendix of the Master EIR) shall not, without further study, cause further substantial degradation of conditions. Further substantial degradation shall be defined as an increase in the peak hour vehicle/capacity (v/C) ratio of 0.05 or greater for roadway segments or intersections whose v/C ratio is estimated to be 1.00 or higher in 2025 by the traffic model. If implementation of this Level of Service is impractical or infeasible, subsequent environmental review, including a Comprehensive Traffic Study, will be required.

The subsequent environmental review may take the form of:

(1) A mitigated negative declaration, if feasible mitigation measures or alternatives will be incorporated to avoid the worsening of the LOS standards presented in the Traffic Appendix of the Master EIR. (Section 21157.5(a) of CEQA.)

(2) A Focused EIR, if mitigation measures cannot avoid the worsening of the LOS Standards presented in the Traffic Appendix of the Master EIR. (Section 21157.5(b) of CEQA.)

The Comprehensive Traffic Study shall include appropriate measures to update the General Plan Traffic Analysis for all subsequent Comprehensive Plans, and for development within the affected Baseline Developed Area and Redevelopment Area.

d. Designated City staff will review future development project proposals within the Baseline Developed Area, on a case-by-case basis. The following criteria will be applied to each proposal, and a determination made by the Engineering and Transportation Director, regarding the acceptable or appropriate level of project impact on the circulation network.

(1) For proposed development projects that conform to the General Plan-approved land use for the site, it is assumed that the adopted performance standards for the circulation system within the area of impact will be maintained. For such projects, the designated City staff will establish an appropriate scope of study for a "Site Access Study" which may address project impacts to adjacent or nearby intersections, as described in Policies 6-a through 6-c.

(2) The "Site Access Study" shall, at a minimum, analyze, and resolve the following:

(a) impacts to roadway intersection that are adjacent to the project site.

(b) impacts to other intersections considered to have a key role in regulating access to the project site or substantial traffic flow between the project site and a key arterial roadway.

(c) impacts to and design needs for access between internal and off-site vehicular circulation, and linkages to off-site bicycle/pedestrian circulation systems, and transit services.

(d) on-site parking needs and impacts to off-site parking, when applicable.

(e) other operational or safety-related concerns and issues, including site access.

(3) The proposed development project will be designed to incorporate all recommendations of the "Site Access Study."

(4) If implementation of the definitive recommendations of the Site Access Study is impractical or infeasible, a Focused Environmental Impact Report, including a Comprehensive Traffic Study will be required. That Study shall include appropriate measures to update the General Plan Traffic Analysis for all subsequent Comprehensive Plans, and for development within the affected Baseline Developed Area and Redevelopment Area.

(5) For projects which do not conform to the General Plan-approved land use, further, supplemental environmental review may be necessary, in accordance with Section 22157.1(d) of the Public Resources Code.

e. Data from the General Plan Traffic Analysis, described in the Traffic Appendix of the Master EIR, shall be utilized to evaluate the effectiveness of the Policies presented above.

7. Circulation and Transportation Policies - Planned Urbanizing Area

a. Prior to the adoption of each Comprehensive Plan, a "Comprehensive Traffic Study" shall be prepared, to the satisfaction of the Engineering and Transportation Director, and be included in a Focused EIR for each respective Comprehensive Plan.

b. The Comprehensive Traffic Study shall include the following components:

(1) Sufficient analysis and mitigation measures to ensure that the Level of Service "D" Standard is maintained on all Comprehensive Plan area roadways and intersections. A determination of which external links and intersections require study and impact assessment shall be made by the Engineering and Transportation Director.

(2) If the identified mitigation measures cannot feasibly achieve the traffic performance standard for internal and external roadways in the opinion of the Engineering and Transportation Director, then the Comprehensive Traffic Study shall include appropriate measures to update the General Plan Traffic Analysis and findings for all subsequent Comprehensive Plans, and for development within the Baseline Developed Area and Redevelopment Area.

c. For individual proposed projects that conform to a Comprehensive Plan's land use designations (for amount and type of land use) a subsequent, Site Access Study may be prepared. Each Site Access Study should, at a minimum, focus on the following issues:

(1) Impacts to roadway intersections that are adjacent to the project site.

(2) Impacts to and design needs for access between internal and off-site vehicular circulation, and linkages to bicycle/pedestrian circulation systems and transit services.

(3) On-site parking needs.

(4) Other safety-related concerns.

Conceivably, the Comprehensive Traffic Study may contain sufficient detail to obviate some or all portions of a "Site Access Study."

d. Data from the General Plan Traffic Analysis, described in the Traffic Appendix of the Master EIR, shall be utilized to evaluate the effectiveness of the Policies presented above.

e. For projects which do not conform to the General Plan-approved land use, further, supplemental environmental review may be necessary, in accordance with Section 21157.1(d) of the Public Resources Code.

8. Implementation

a. From time to time, the City may adopt subsequent master plans, short-range transit plans, or other policy documents to implement some or all of the policies listed above. These subsequent policy documents, such as the Capital Improvement Program and individual street construction projects, will be considered "anticipated subsequent projects" in the context of Section 21157.7 of CEQA. Chapter VIII of this General Plan presents a variety of other potential implementation tools.

C. COMMUNITY FACILITIES - WATER

1. Overview

Water is probably the most critical natural resource in California. The City of Modesto has teamed up with the Modesto Irrigation District (MID) and Del Este Water Company to develop a new surface water supply, ultimately a 60 million-gallon-per-day (MGD) water treatment plant. This will be used to stabilize the groundwater overdraft the City was experiencing. This conjunctive groundwater-surface water management plan will allow Modesto to continue to serve current customers and plan for future expansion. A similar strategy is being developed with Turlock Irrigation District (TID) for the Modesto Urban Area south of the Tuolumne River.

The City is also participating in the drafting of a Regional Groundwater Management Plan for the two groundwater basins it straddles. The municipal and irrigation water purveyors are developing the groundwater management plans for the mutual beneficial management of the limited groundwater resources.

This Section addresses the requirements of Government Code Section 65302(d) pertaining to the "conservation, development, and utilization of ... water."

2. Water Policies - Baseline Developed Area

a. During review of all proposed development, the City shall require, as a condition of approval, that all developments reduce their potable water demand. The City should refer to Table 5-1 in the Final Master Environmental Impact Report for potential techniques to reduce potable water demand.

b. The City of Modesto will encourage the optimum beneficial use of water resources within the City. The City shall strive to maintain an adequate supply of high quality water for urban uses.

c. The City of Modesto will strive to stabilize groundwater levels and eliminate groundwater overdraft, as part of a conjunctive groundwater-surface water management program. The City shall view regional water resources, such as groundwater, surface water and recycled wastewater, as an integrated hydrologic system when developing water management programs.

d. The City of Modesto will be the sole provider of municipal and industrial water services to the area within the City's Sphere of Influence. The City will cooperate with the overlying agricultural water providers, MID and TID, and with adjacent municipal and industrial providers for the mutually beneficial management of the limited water resources. The City will also take into consideration its public trust duty with regard to environmental uses of water resources.

e. Water facilities will be constructed, operated, maintained and replaced in a manner that will provide the best possible service to the public, given the financial abilities and constraints of the City and of the private sector alike.

f. The City will continue to establish guidelines, policies and programs to implement water conservation to the maximum extent feasible. The City shall strive to maximize the utilization of water resources when developing and implementing its Economic Development Strategy.

g. The City supports the local management of groundwater resources, rather than state regulation or adjudication. The City will adopt a Groundwater Management Plan in accordance with AB 3030, and in cooperation with the adjacent and overlying water providers within the groundwater basins the City occupies.

3. Water Policies - Planned Urbanizing Area

a. All of the Water Policies for the Baseline Developed Area apply within the Planned Urbanizing Area.

b. The City of Modesto shall coordinate land development projects with the expansion of water treatment and supply facilities.

4. Implementation

From time to time, the City may adopt subsequent plans or policy documents such as a Groundwater Management Plan or a Water Master Plan to implement some or all of the policies listed above. These subsequent policy documents will be considered "anticipated subsequent projects" in the context of Section 21157.7 of CEQA. Chapter VIII of this General Plan presents a variety of other potential implementation tools.

D. COMMUNITY FACILITIES - WASTEWATER

1. Overview

Wastewater collection and treatment is an essential community service to protect the public health and environment and to foster economic vitality. The objective of the City's wastewater system is to meet increasingly strict wastewater regulations in a cost-effective manner. As water becomes increasingly scarce in California, reclaiming wastewater will create opportunities to optimize the region's water resources. Similar opportunities exist for the beneficial reuse of biosolids and methane, and other residuals of wastewater treatment.

This Section addresses the requirements of Government Code Sections 65302(a), relating to liquid waste disposal facilities and 65302(d), relating to the reclamation of water and the "prevention and control of the pollution of streams and other waters." Wastewater will be considered as one part of integrated regional water resource management.

2. Wastewater Policies - Baseline Developed Area

a. To protect public health and the environment, the City of Modesto will maintain the standards for effluent water and biosolids, from Modesto's wastewater treatment facilities, as established by the Central Valley Regional Water Quality Control Board, in compliance with the Federal Clean Water Act, the State Porter-Cologne Act, and their implementing regulations, current and future.

b. Wastewater facilities will be constructed, operated, maintained and replaced in a manner that will provide the best possible service to the public, given the financial abilities and constraints of the City and of the private sector alike. In developing implementation plans, consideration shall be given to rehabilitation of essential existing facilities, expansion for current excess demand, and the timely expansion for future demand.

c. The City's wastewater system capacity will be allocated to existing and future residential, commercial and industrial customers. Discharges from environmental cleanup sites may be issued conditional discharge permits subject to the availability of excess treatment capacity. In accordance with federal and state regulations, all

discharges to the wastewater system may not, or may not threaten to, upset, interfere, or pass through the wastewater system.

d. Subject to the approval of the Stanislaus Local Agency Formation Commission, the City of Modesto and the Salida Sanitary District will be the sole providers of wastewater services to the area within the City's Sphere Of Influence and sewer service area.

e. The City will encourage the regional beneficial reuse of reclaimed water. The City is committed to development of a full reclamation program in the long term.

f. The City should strive to use land application of biosolids as the most environmentally beneficial reuse of this resource, rather than the disposal options of landfilling or incineration.

g. The City should establish odor buffer zones around primary and secondary wastewater plants, thereby minimizing the likelihood of odors impacting new residential or commercial development.

h. The City should utilize source control and demand management among its tools for accomplishing the most cost-effective wastewater management, protective of public health and the environment.

3. Wastewater Policies - Planned Urbanizing Area

a. All of the Wastewater Policies for the Baseline Developed Area apply within the Planned Urbanizing Area.

b. The City of Modesto will require each new development project to be served with public sanitary sewers.

c. The City of Modesto will coordinate land development proposals with the expansion of wastewater facilities.

Figure V-3 presents a diagram that indicates the sanitary sewer trunks necessary to serve each Comprehensive Planning District listed in Chapter III.

4. Implementation

From time to time, the City may adopt subsequent plans or policy documents, such as a Wastewater Master Plan, to implement some or all of the policies listed above. These subsequent policy documents will be considered "anticipated subsequent projects" in the context of Section 21157.7 of CEQA. Chapter VIII of this General Plan presents a variety of other potential implementation tools.

E. COMMUNITY FACILITIES - STORM WATER

1. Overview

Modesto's storm drainage facilities have had a unique history, but changing regulations require a change in how drainage is provided. In 1994, Modesto complied with new federal storm water runoff quality regulations by obtaining its first National Pollutant Discharge Elimination System (NPDES) storm water permit, which requires many new Best Management Practices to be implemented to control runoff quality. Two-thirds of the City is served by rockwells which are regulated by federal underground injection control regulations. Increasingly strict regulations and unacceptable life-cycle costs for rockwells have led the way to a new strategy for storm water management: positive pipe lines, detention and/or retention basins to maximize groundwater recharge and water quality; and limited discharge to surface streams. Rockwells will be allowed only in infill areas isolated from surface discharge routes.

This Section addresses the requirements of Government Code Section 65302(d) pertaining to the "conservation, development and utilization of natural resources, including water and its hydraulic forces..." and the "prevention and control of the pollution of streams and other waters." This section addresses the management of both the storm water quantity and quality as it relates to both surface waters and groundwater. Storm water will be considered as one part of integrated regional water resource management.

2. Storm Water Drainage Policies - Baseline Developed Area

a. Two-thirds of the Baseline Developed Area is served by underground injection of urban runoff, commonly termed "rockwells". New rockwells will be discouraged within the Baseline Developed Area. Instead, new storm drainage in the Baseline Developed Area shall be by means of positive storm drainage systems, unless the proposed service area is so isolated from surface waters that it is infeasible to provide positive drainage.

   The new storm drainage facilities shall consider the drainage facility requirements presented in Table 9-1 of the Final Master Environmental Impact Report. This policy applies to both positive storm drainage systems, and to new rockwells (which are generally discouraged) in the Baseline Developed Area.

b. The Modesto Irrigation District shall be consulted during the preparation of drainage studies required by this General Plan.

c. The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and Environmental Protection Agency for underground injection.

d. Storm water drainage facilities shall be constructed, operated, maintained and replaced in a manner that will provide the best possible service to the public, given the financial abilities and constraints of the City and of the private sector alike. In developing implementation plans, consideration shall be given to rehabilitation of existing facilities, remediation of developed areas with inadequate levels of drainage service, and the timely expansion of the system for future development.

3. Storm Water Drainage Policies - Planned Urbanizing Area

a. All of the Storm Water Drainage Policies for the Baseline Developed Area apply within the Planned Urbanizing Area.

b. The City of Modesto shall require each new development area to be served with positive storm drainage systems. A positive storm drainage system may be comprised of catch basins, pipe lines, channels, recharge/detention basins and pumping facilities which discharge storm water to surface waters of the state. The positive storm drainage facilities shall consider the requirements presented in Table 9-1 of the Final Master Environmental Impact Report.

c. The City of Modesto shall require positive storm drainage facilities in the Planned Urbanizing Area to accomplish storm water recharge to groundwater of 80% of the average annual runoff. Recharge shall be typically accomplished at recharge/detention basins, designed to be in compliance with applicable federal and state water quality regulations for both groundwater and surface water. The City shall update its Drainage Master Plan to cover the entire area within the City's Sphere of Influence.

d. New areas shall be designed so that runoff in excess of groundwater recharge in Policy 3.c. shall be discharged to waters of the state in a manner not exceeding the undeveloped storm hydrograph.

e. Dual-use flood control/recreation facilities shall be developed (dual-use facilities) as part of the storm drainage system. Dual-use facilities maximize efficient use of land and funds by satisfying needs for water quality, flood control, recreation and aesthetics within a single consolidated facility.

f. Dual-use facilities shall be designed and constructed in accordance with the standards in the "Design Standards for Dual Use Flood control/Recreation Facilities" manual.

g. New developments shall be required to implement an appropriate selection of permanent pollution control measures in accordance with the City's implement-tation policies for the municipal NPDES stormwater permit. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

4. Implementation

A storm water management program (SWMP) should be prepared by the City, potentially incorporating those measures listed in Table 9-4 in the Master Environmental Impact Report. The storm water management program will be considered an "anticipated subsequent project" in the context of Section 21157.7 of CEQA. Chapter VIII of this General Plan presents a variety of other potential implementation tools.

F. COMMUNITY FACILITIES - MODESTO CITY-COUNTY AIRPORT

1. Overview

Section 65302.3 of the Government Code requires the City's General Plan to be consistent with the Airport Land Use Plan for the Modesto City-County Airport. This Airport Land Use Plan was adopted by the Airport Land Commission on August 3, 1978, in accordance with Section 21675 of the Public Utilities Code.

2. Modesto City-County Airport Policies - Baseline Developed Area

Since the Airport is located in the Baseline Developed Area, the following policies apply to the Airport and the area surrounding it.

GPA 03-01 (03/04/03)

a. The City encourages aviation services at the Modesto City/County Airport and promotes airline service that meets the present and future needs of the community. The City should pursue greater inter-regional air service to the extent that it is economically viable.

b. Land use around Modesto City-County Airport will be in accordance with the Stanislaus County's Airport Land Use Commission Plan (ALUC) adopted in accordance with Section 21676 of the Public Utilities Code. The ALUC plan provides for the orderly growth of the Airport and the area surrounding the Airport within the jurisdiction of the Airport Land Use Commission, and will safeguard the general welfare of the inhabitants within the boundary of influence and the public in general.

c. Mitigation measures suggested by the Airport Master Plan and related documents should be considered at the implementation of inter-regional air service, including a voluntary noise reduction program for residential units impacted by noise levels that exceed acceptable state standards.

3. Implementation

From time to time, the City may adopt subsequent development plans or policy documents to implement some or all of the policies listed above. These subsequent policy documents,

including revisions to the Airport Land Use Plan, the Airport Master Plan, and various development approvals in or near the Airport, will be considered "anticipated subsequent projects" in the context of Section 21157.7 of CEQA. Chapter VIII of this General Plan presents a variety of other potential implementation tools.

G. COMMUNITY FACILITIES - OPEN SPACE AND PARKS

1. Overview

An Open Space Plan is mandated by Section 65563 of the California Government Code. This mandate recognizes that open space is a limited and valuable resource that must be conserved wherever possible. In Modesto, open space is provided through a comprehensive network of regional, community, and neighborhood parks.

Community facility policies and standards should be considered flexible enough in order to adapt to new trends, take advantage of new or different recreation or open space opportunities, develop special facilities, recycle old parks and fine tune facilities and programs to unique circumstances and conditions. Standards may deviate from minimum when special opportunities or needs arise that would provide enhanced facilities or services to the community.

Regionalization and consolidation of the planning and management of Community Facilities and Services will be continually evaluated as all the communities in Stanislaus County continue to grow and require similar facilities and services.
The "Tuolumne River", "Dry Creek" and " Stanislaus River" Comprehensive Planning Districts described in Chapter III, present focused open space policies applicable in those open space areas. Additional Open Space Policies are presented in Chapter VII.

2. Open Space and Parks Policies - Baseline Developed Area

a) All acreage standards are expressed as net acreage. This means that additional acreage must be added to the net park acreage for off-site requirements, such as street right-of-way, in order to satisfy the minimum standard. Minimum acreage standards will be increased if necessary to accommodate the development standards for the park.

b) Figure V-5 presents Park Planning Areas for the Baseline Developed Area. With regards to acreage, service area, location and street frontage standards, the existing park system shown on Figure V-4 shall be considered adequate and acceptable, as is, with the following exceptions, by Park Planning Area designation:

- Bret Harte
- Shackleford
- Tide Water Industrial
- Burbank
- Maze Wren

- Woodland
- College West
- North East McHenry
- Empire East
- Empire West
- Airport

Within these Park Planning Areas, the open space and parks system is NOT considered adequate and acceptable as is and the City will endeavor to develop facilities in accordance with all of the Open Space and Parks policies and Community and Neighborhood Park standards that apply to the Baseline Developed Area. However, the City recognizes and accepts that it may not be possible to conform precisely to all policies and meet all standards in total because of prior development patterns and policies that were not under the City's control.

c. The City will endeavor to plan, acquire, and develop parks and recreation facilities adjacent to schools in order to maximize the potential for joint use of adjoining City and School District open space and recreation facilities.

d) With the exception of School District open space, only acreage owned or otherwise controlled exclusively by the City in perpetuity and planned to be developed and operated for the express and primary purpose of providing recreation facilities as set forth in the Neighborhood and Community Park standards outlined in the General Plan, will count toward minimum acreage standards. Acreage planned and developed primarily for other purposes such as trails and elements of drainage systems shall not count toward meeting minimum standards for Neighborhood and Community Parks.

e) Baseline Developed Area - Neighborhood Park Standards

The City will endeavor to provide at least one neighborhood park within each Park Planning Area. The park should be centrally located within the Park Planning Area and have a service radius of one half to three quarters of a mile. The park should have one collector street frontage and the remaining sides should front on residential streets.

The minimum size for a neighborhood park shall be **SEVEN ACRES** or the total acreage based on **TWO ACRES OF PARK LAND PER ONE THOUSAND POPULATION** within the Park Planning Area, whichever is greater.

When a public elementary or junior high school or schools are located within a Park Planning Area, up to five acres of open space, at each school which is developed, maintained and is accessible to the public for outdoor recreation activities, may count toward satisfying the Neighborhood Park standard of two acres of Neighborhood Park land per one thousand population within the Park Planning Area. However, regardless of the number of public school open space acres within a Park Planning Area, the City will provide a minimum of one City neighborhood park of seven acres.

f) Baseline Developed Area - Community Park Standards

The Community Park Service Area is that area within a radius of approximately one to one-and-one-half miles of the park site. The park should have major street frontage and the remaining sides should front on residential streets.

The minimum size for a community park should be **TWENTY-FIVE ACRES** or the total acreage based on **ONE ACRE OF PARK LAND PER ONE THOUSAND POPULATION** within the Community Park Service Area, whichever is greater.

When a public high school is located within the same service radius as the community park, up to 15 acres of school open space, which is developed, maintained and is accessible to the public for outdoor recreation activities, may count toward satisfying the overall standard of one acre of Community Park land per one thousand population within the Community Park Service Area. However, regardless of the number of public high school open space acres within the Community Park Service Area, the City will provide a minimum of one City community park of 25 acres.

3. Open Space and Parks Policies - Planned Urbanizing Area

a) The policies and standards for the development of the park system within the Planned Urbanizing Area differ in several respects from those in the Baseline Developed Area. These policies and standards will be implemented through each "Comprehensive Plan", in conjunction of the relevant "Comprehensive Planning District" policies presented in Chapter III.

b) The acreage standards related to Neighborhood and Community Parks are considered minimum. These acreage standards may be enhanced by additional open space to meet unique characteristics of the Specific Plans for each new Village.

c) All acreage standards are expressed as net acreage. This means that additional acreage must be added to the net park acreage for off-site requirements, such as street right-of-way, in order to satisfy the minimum standard. Minimum acreage standards will be increased if necessary to accommodate the development standards for the park.

d) The City will endeavor to plan, acquire, and develop parks and recreation facilities adjacent to schools in order to maximize the potential for joint use of adjoining City and School District open space and recreation facilities.

e) Dual-use flood control/recreation facilities shall be developed wherever feasible. Only acreage owned or otherwise controlled exclusively by the City in perpetuity will count toward minimum acreage standards. Park acreage credit for dual-use facilities shall be calculated in accordance with the standards and criteria contained in the "Design Standards for Dual Use Flood Control/Recreation Facilities" manual. In contrast to the Baseline Developed area, School District open space does NOT count towards minimum park acreage requirements within the Planned Urbanizing Area.

The City recognizes the community benefits of dual use flood control/recreation facilities (dual-use facilities) in that these facilities:

1) Reduce the total acreage purchased for stormwater detention.
2) Allow and encourage maximum recreational uses of detention lands.
3) Allow for periodic stormwater detention storage without significantly disrupting park uses.
4) Augment park facilities available to the local community.
5) Maximize public use of available open space.

f) Dual-use facilities shall be designed and constructed in accordance with the standards and criteria contained in the "Design Standards for Dual use Flood Control/Recreation Facilities" manual.

g) Planned Urbanizing Area - Neighborhood Park Standards

The City will endeavor to provide at least one neighborhood park within each residential neighborhood. The park should be centrally located within the neighborhood and have a service radius of one half to three quarters of a mile.

The park should have one connector street frontage and the remaining sides should front on residential streets.

The minimum size for a neighborhood park shall be **SEVEN ACRES** or the total acreage based on **ONE ACRE OF PARK LAND PER ONE THOUSAND POPULATION** within the neighborhood, whichever is greater.

h) Planned Urbanizing Area - Community Park Standards

The Community Park Service Area is that area within a radius of approximately one to one-and-one-half miles of the park site. The park should have one major street frontage and the remaining sides should front on residential streets. Parks should not back up to residential lots.

The minimum size for a community park should be **FORTY ACRES** or the total acres based on **TWO ACRES OF COMMUNITY PARK LAND PER**

ONE THOUSAND POPULATION within the Community Park Service Area.

4. Implementation

From time to time, the City may adopt subsequent plans or policy documents to implement some or all of the policies listed above. These subsequent policy documents will be considered "anticipated subsequent projects" in the context of Section 21157.7 of CEQA. Commonly used anticipated subsequent projects are listed and described in Chapter VIII.

H. COMMUNITY FACILITIES - PUBLIC SCHOOLS

1. Overview

Public schools, comprising both Community Facilities as well as Community Services, are a vital component of the City's infrastructure. In addition to their role of educating youth, they provide continuing education opportunities to all ages, prepare young adults for higher education or a vocation, and positively influence the community in many other ways. As of January 1995, the area covered by the Modesto Urban Area General Plan is served by fourteen public school districts.

School grounds are an integral part of the community's open space. Schools are physical focal points in the planned villages. They are also the focal point for recreational and social needs in the neighborhoods that they directly serve.
Parochial and private schools are acknowledged as supplementary providers of education even though policies are not outlined in the General Plan for their facilities.

2. Public Schools Policies - Baseline Developed Area

a. For families in the child-rearing years, the proximity of a public elementary school within easy walking distance is a strong criterion in their evaluation of housing choices. Elementary school closure, a school district prerogative, has significant impacts on the surrounding neighborhood. School districts are encouraged to involve the city in deliberations regarding school closure, early in the process. Consistent with state statutes, school districts are encouraged to include extensive community participation in the process to close any existing schools.

b. Existing schools and proposed school facilities on property owned by any School District on January 1, 1995, are shown on Figure V-6. School districts are encouraged to share their facility plans for new schools with the City.

c. Changes in land use or intensity of development within the Baseline Developed Area may have an impact on school services which necessitate close communication between the City and the school district.

d. There are specific state law prohibitions against certain uses within close proximity to schools, such as hazardous material uses and alcohol sales. Developers should contact the appropriate school district to determine if there are any known constraints to future development.

e. The City shall continue to require that the developer pay, prior to issuance of any building permits, the maximum residential, commercial and industrial development school fees in effect at the time building takes place. This requirement is in accordance with the provisions of Assembly Bill 2926.

3. Public Schools Policies - Planned Urbanizing Area

a. Public School Districts should be directly involved in the lead time for planning of infrastructure. A lead time of 3-5 years is desirable.

b. Neotraditional Planning Principles, prescribed for residential development in the Planned Urbanizing Area, call for public schools as prominent, physical keystones to the connector street network. Schools, placed conveniently to the residents to be served, will maximize opportunities for students to walk and bike to school. Opportunities should be explored for joint school/park development when planning new neighborhoods or villages. The option for joint acquisition and development of school and park sites should be continued. School districts are encouraged to consider these design principles in their facility planning efforts.

c. Land for new school facilities should generally meet the following minimum space requirements:

(1) Elementary schools - 10 acres (net).

(2) Middle schools or junior high schools -20 acres (net).

(3) High schools - 50 acres (net).

d. All of the policies for "Public Schools - Baseline Developed Area" apply equally in the Planned Urbanizing Area.

e. Developers of residential projects that are subject to the following policies (3e through 3k, below) should contact each affected school district prior to submitting an application to the City of Modesto. This early consultation with the school district on such matters as housing mix, timing of development, phasing, etc., will assist both parties in reaching an agreement on the best method of mitigating school impacts, should the project later be found to have the potential for significant effects on school facilities.

f. Once an application for a residential project, which is not exempt from CEQA, has been determined to be complete, it will be referred to the appropriate school

district(s) for "review and comment" in conjunction with the preparation of the required Focused Environmental Impact Report.

g. Each school district will provide the City of Modesto with the information needed to evaluate the impact of the proposed residential project on their facilities, including background data necessary to document the impact that a residential project may have on that district's facilities. Such information shall be provided to the City of Modesto in a timely manner consistent with the City's responsibilities under CEQA.

h. If it is determined that a proposed residential project may have a significant effect on a school district's facilities, the Focused EIR shall analyze this impact. It shall be the responsibility of the project applicant and school district to resolve the appropriate method of mitigation. Mitigation may take several forms, including but not limited to one or more of the following: fees, land dedication, special taxes, etc.

i. The impact on public school capital facilities shall be considered fully mitigated by the City of Modesto when it receives written notification from the appropriate school district(s) that the school district(s) and project applicant have resolved school impacts and by what means.

If the City does not receive said written notification prior to a deadline set by the City, the City Council will review the final mitigation proposals by school district(s) and project applicant. This review will be done in light of the EIR (Focused or otherwise) completed for the project. The City Council may determine whether (a) the project impact on school capital facilities is fully mitigated based on any or all of the proposals, or (b) if specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR (Focused or otherwise), addressing the impact on public school capital facilities.

j. Policies 3e through 3k shall apply when:

(1) A residential project seeks the approval of a General Plan Amendment, rezoning, prezoning, annexation, Comprehensive Plan, or other legislative act;

(2) The project is located on property classified as Planned Urbanizing Area on the Growth Strategy Diagram;

(3) A school district has imposed school mitigation fees pursuant to Government Code Section 53080; and

(4) A school district has a valid application for the funding of public school capital facilities pending before the State unless it is not eligible for such State funding in which case the school district shall, within thirty (30) days after it has determined in good faith that it is so eligible, initiate a process leading to the filing of a valid application for such funding.

k. The above policies (3e through 3k) shall not apply to residential projects approved in conjunction with a General Plan Amendment, rezoning, prezoning, annexation, or other legislative act that have completed the CEQA process (certification of an environmental impact report, adoption of a negative declaration or adoption of an exemption determination) as of March 5, 1991.

4. Implementation

The construction, maintenance, and day-to-day operations of schools is not governed by the City of Modesto. School districts with elected Boards of Directors are responsible for the actual implementation of School Facilities. Therefore, the City's role in the implementation of the above policies would be limited to: coordination with the affected school districts; determining whether a development project's impacts on school capital facilities is fully mitigated; and making appropriate findings under CEQA if the impacts are not fully mitigated.

5. Proposition 1A and Senate Bill 50

Upon the passage of Proposition 1A on November 3, 1998, the provisions of Senate Bill 50 became effective. Senate Bill 50 alters the method by which school facilities made necessary by development are addressed in the State of California. To the extent that the provisions of the General Plan relating to school facilities do not conflict with Senate Bill 50, they are suspended. The language relating to school facilities will remain unaltered in the General Plan so that a history of school facility development under Senate Bill 50 can exist prior to

any further review and amendment of the General Plan provisions relating to school facilities. Should Senate Bill 50 be repealed , the provisions of the General Plan relating to school facilities which were suspended shall once again become effective.

I. COMMUNITY SERVICES - TRANSIT

1. Overview

In addition to the Circulation policies presented in this Chapter, the City should adopt a goal of improving public transportation that could include increased bus and light rail service. This could help mitigate some issues related to site-specific intersection operations or parking requirements, if combined with other trip reduction measures. The ability to add service may be determined by the availability of public sector funding sources, the extent of private sector participation or subsidy, and the overall feasibility of transit service.

2. Transit Policies - Baseline Developed Area and Planned Urbanizing Area

a. Public transit services shall be provided, using the most cost-effective methods available and based upon professional analysis of alternatives.

b. The City's transit system shall strive to provide a mix of head ways dependent upon actual and anticipated ridership to reach a balance between cost-effectiveness and convenience.

c. The City's transit system shall strive to maintain farebox recovery ratios sufficient to meet state requirements.

d. The City should participate in regional public transit proposals to the extent economically feasible and that such systems benefit Modestans.

e. The City transit system shall strive to provide service on a one-half-mile grid where feasible to make the service as accessible as possible. Newly developing areas should provide a street pattern capable of accommodating transit service on a one-half-mile grid.

f. The City's transit system shall strive to provide two-way service on routes where feasible.

g. The City shall strive to safeguard options for future transit and mass transportation development, such as the Union Pacific railroad right-of-way.

3. Implementation

From time to time, the City may adopt subsequent plans or policy documents to implement some or all of the policies listed above. These subsequent policy documents will be

considered "anticipated subsequent projects" in the context of Section 21157.7 of CEQA. Chapter VIII of this General Plan presents a variety of other potential implementation tools.

J. COMMUNITY SERVICES - POLICE

1. Overview

A primary goal of the City of Modesto Police Department is to maintain a sense of personal safety and security. Containing the level of crime at or below levels of other comparable cities will be accomplished through highly visible patrol services, coupled with effective investigations complimented by a very active education and crime prevention program. While maintaining law and order, the Police Department is active in participating in community involvement programs. There is a continuing effort at maintaining a high level of citizen satisfaction and providing high quality police services through caring and competent employees who are given a high level of personal and specialized education and technical training. Demographic and economic conditions will have tremendous influence on the demand for police services. The growing population, additional recreational facilities, increased traffic volumes, expanded City limits, new businesses and new residential areas all increase the importance of maintaining and supporting law enforcement services.

2. Police Policies - Baseline Developed Area and Planned Urbanizing Area

The following Policies apply in the Baseline Developed Area and, where relevant, in the Planned Urbanizing Area. In general, however, the Modesto Police Department is only authorized to provide services within its primary jurisdiction - the incorporated Modesto City limits.

a. The City of Modesto should maintain an adequate personnel level, to organize patrol areas and provide investigative responses to achieve a comfortable and safe community climate conducive to a high quality of life and to maintain an active and growing commercial and business environment. To the maximum economic extent feasible, police operations should include proactive law enforcement and administrative efforts, all to be expanded as the City's population grows.

b. The City of Modesto Police Department should strive to reduce the level of crime below levels of other progressive departments with comparable populations and demographics.

c. The City of Modesto should strive to provide sworn officers in sufficient numbers to support basic police services consistent with other progressive departments with comparable populations and demographic statistics.

d. The City of Modesto should strive to provide civilian staff in sufficient numbers to support sworn staff and to support continuing civilization of services such as Crime Prevention, Investigative Support, Crime Scene Investigation, Accident Reports, and other documentation of incidents.

e. The City of Modesto should maintain its efforts to educate the public about crime deterrence through programs like the Neighborhood Watch Program within residential neighborhoods, Traffic Watch Program on residential streets, and the Business Watch Program within commercial and industrial areas.

3. Implementation

From time to time, the City may adopt subsequent plans or policy documents to implement some or all of the policies listed above. These subsequent policy documents will be considered "anticipated subsequent projects" in the context of Section 21157.7 of CEQA. Chapter VIII of this General Plan presents a variety of other potential implementation tools.

K. COMMUNITY SERVICES - FIRE PROTECTION

1. Overview

The mission of the Fire Department is to provide efficient and effective fire and life safety protection to the community through control of hostile fire, fire prevention service, emergency medical services, emergency preparedness, and mitigation of hazardous materials

incidents. This commitment is intended to safeguard the general economy and welfare of Modesto.

The policies in this Section conform to Section 65302(g) of the Government Code as that section of the Code relates to urban fires.

2. Fire Protection Policies - Baseline Developed Area and Planned Urbanizing Area

The following policies apply in the Baseline Developed Area and, where relevant, the Planned Urbanizing Area. In general, however, the jurisdiction of the Modesto Fire Department is limited to the incorporated Modesto City limits.

a. The City of Modesto should strive to maintain adequate fire flows in relation to structure size, design, requirements for construction and/or built-in fire protection systems. Maintenance of adequate fire flows includes factors such as adequate storage, system gridding, hydrant spacing, and spacing and sizing of water mains.

b. The City of Modesto should ensure adequate ingress and egress to all structures for fire fighting and rescue purposes.

c. The City of Modesto should provide protection of life and property through the use of engineered fire protection systems and fire resistive roof systems.

d. The City of Modesto should practice timely adoption of the Uniform Fire Code, National Fire code, and State Codes. These codes and ordinances may be amended to suit local conditions.

e. The City of Modesto should strive to ensure that fire stations, apparatus, equipment and personnel are in place concurrent with construction in the Planned Urbanizing Area.

f. Future fire station sites and facilities should be closely coordinated with existing and planned public parks, libraries, and other activity centers in order to encourage maximum efficiency of public facilities.

g. The City of Modesto should promote fire-safe behaviors within the community through public fire education activities and programs.

h. The City should maintain its readiness to mitigate man-made or natural disasters through maintenance and implementation of the Multi-Hazard Functional Plan.

I. The Fire Department should maintain equipment, staffing and facilities to provide Emergency First Response level Emergency Medical Services, Urban Search and Rescue, and Hazardous Materials emergency response capabilities.

j. The City of Modesto should strive to provide adequate Fire Department facilities through the achievement of the following facilities and service standards:

(1) The City of Modesto should maintain an emergency response system capable of achieving the following standards in 95% of all cases.

(a) The first fire emergency response unit arrives within 6 minutes of dispatch.

(b) A full alarm assignment arrives within 10 minutes of dispatch.

(c) A second alarm assignment arrives within 15 minutes of dispatch.

(2) The City should maintain staffing levels adequate to achieve an Insurance Service Office (ISO) rating of Class 2.

3. Implementation

From time to time, the City may adopt subsequent plans or policy documents to implement some or all of the policies listed above. These subsequent policy documents will be considered "anticipated subsequent projects" in the context of Section 21157.7 of CEQA. Chapter VIII of this General Plan presents a variety of other potential implementation tools.

L. COMMUNITY SERVICES - SOLID WASTE

1. Overview

This section addresses the requirements of Government Code Section 65302(a) regarding solid waste disposal facilities.

2. Solid Waste Disposal Policies - Baseline Developed Area

a. The City of Modesto will comply with all the requirements of Assembly Bill 939 which mandates the diversion of solid waste of 25% by 1995 and 50% by 2000, by way of source reduction, recycling, composting, and transformation.

b. Source Reduction and Recycling Element (SRRE)

The state's placement of source reduction at the top of the integrated waste management hierarchy requires that the City implement source reduction programs. Some of the more critical program alternatives which may need to be implemented

include variable can rates, composting at the site of generation, waste efficient yard care, and source reduction education.

New recycling programs may also need to be implemented; these programs include initiating multi-family and commercial/industrial recycling programs; evaluating the current curbside collection method and making recommendations for modifications as necessary; initiating a comprehensive public education and information program; and applying for grant funding for program implementation.

A significant amount of the waste currently being disposed of by the City is potentially compostable. Because of this significant diversion potential, it is essential that yard waste composting (including co-composting yard waste with biosolids) and compost market development be initiated.

The success of the other programs outlined in the SRRE depends upon the cooperation and participation of a public that understands the importance of waste reduction and recycling objectives. The residential and business communities will be targeted for a comprehensive outreach effort, including multi-media campaigns, awards, and point of purchase information.

c. Household Hazardous Waste Policies

The City will continue to participate in the existing Household Hazardous Waste Programs, including support of the drop-off facility, continued public information, and participation in the oil and battery collection programs.

d. County Hazardous Waste Management Plan

The City will comply with Stanislaus County's Hazardous Waste Management Plan.

e. Garbage Service

The City shall provide for the safe collection and disposal of all solid waste generated in the City of Modesto and to provide for the appropriate disposal facilities for the City's long-term needs. Garbage service shall be provided to all residences and business within the City of Modesto.

f. Landfills

To meet the waste disposal demands of the growing population, the City shall support Stanislaus County's efforts to find an additional landfill site, expand capacity of the Fink Road Landfill, or find an alternative waste disposal method for solid waste.

3. Solid Waste Disposal Policies - Planned Urbanizing Area

a. In addition to the Solid Waste Disposal Policies in place for the Baseline Developed Area, as outlined above, the City should also consider implementing local land use incentives and zoning/building code modifications to encourage source reduction, recycling, and composting, and to provide adequate space for containers.

b. In conjunction with the processing of a Comprehensive Plan within the Planned Urbanizing Area, the city shall consult with the firms responsible for solid waste disposal to confirm that adequate capacity exists for solid waste that would be generated by the project.

4. Implementation

From time to time, the City may adopt subsequent plans or policy documents to implement some or all of the policies listed above. These subsequent policy documents, such as the Source Reduction Recycling Element and the Hazardous Waste Management Element, will be considered "anticipated subsequent projects" in the context of Section 21157.7 of CEQA. Chapter VIII of this General Plan presents a variety of other potential implementation tools.

M. COMMUNITY SERVICES - HAZARDOUS MATERIALS MANAGEMENT

1. Overview

The County has prepared a Hazardous Waste Management Plan which is the guideline for managing hazardous waste in Stanislaus County. The goals, objectives, conclusions, recommendations and implementation measures of that plan are hereby incorporated as a part of this document, along with any modifications which may result from state review of the Hazardous Waste Management Plan.

2. Hazardous Materials Management Policies

a. The City shall comply with all existing federal and state laws which regulate the generation, transportation, storage, and disposal of hazardous materials.

b. The City of Modesto should require that businesses and industries using hazardous material provide mitigation measures commensurate with the hazards they bring to the community, in accordance with the applicable Articles and Sections of the most current adopted edition of the Uniform Fire Code.

c. In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City. The City shall notify the County Health Services Department. Under the direction of these agencies, a site remediation plan shall be prepared by the project applicant.

The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City.

If a parcel is found to be contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low to allow any use at the site. In practice, both the technical feasibility of the remediation and its cost (financial feasibility) should be evaluated in order to determine the overall feasibility of locating a specific use on a specific site. In some cases, it may require restriction to industrial use or a use that involves complete paving and covering of the parcel.

In accordance with OSHA requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record.

d. For each specific project that would generate hazardous waste, the City shall require as a condition of building permit and/or business license approval that the project sponsor prepare a hazardous material transportation program. The transportation program shall identify the location of the new facility or use and designate either (1) specific routes to be used for transport of hazardous materials and wastes to and from the facility, or (2) specific routes to be avoided during transport of hazardous materials and wastes to and from the facility. Routes would be selected to minimize proximity to sensitive receptors to the greatest practical degree. Passage through residential neighborhoods should be minimized, and parking of waste haulers on residential streets should be prohibited. The City Fire Department shall review and approve the applicant's hazardous materials transportation program or, working with the applicant, modify it to the satisfaction of both parties.

e. Prior to the issuance of all building permits, the City shall identify the site in relation to all CERCLIS sites and to known or suspected uncontrolled or abandoned hazardous waste sites. All projects within 2,000 feet of these facilities (generally depicted on Figure 16-1 of the Master Environmental Impact Report) shall conduct hazardous materials studies as necessary to identify the type and extent of contamination, if any, and the extent of risk to human health and public safety. If necessary, a remedial action program would be developed and implemented as in Policy 2-c.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-067

A RESOLUTION ADOPTING THE 2006 NON-MOTORIZED TRANSPORTATION MASTER PLAN

WHEREAS, the City Council last adopted a Non-Motorized Transportation Master Plan in 1996, and

WHEREAS, a current non-motorized plan is required to be maintained by the City in order to qualify and compete for grant funding from state and federal sources, and

WHEREAS, staff has prepared the 2006 Non-Motorized Transportation Master Plan (the "Project"), a copy of which is attached hereto as **Exhibit "1"** and incorporated herein by reference, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, on January 9, 2007, by Resolution No. 2007-065, the City Council of the City of Modesto considered an Initial Study, Environmental Assessment No. EA/C&ED No. 2006-44, which concluded that the proposed 2006 Non-Motorized Transportation Master Plan (the "Project") is within the scope of the previously certified Urban Area General Plan Master Environmental Impact Report (SCH No. 19990820) and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required, and

WHEREAS, by an agenda report to the City Council from the Parks, Recreation and Neighborhoods Department dated December 21, 2006, City staff recommended approval of the proposed 2006 Non-Motorized Transportation Master Plan, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on January 9, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed 2006 Non-Motorized Transportation Master Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the 2006 Non-Motorized Transportation Master Plan, as described in Exhibit "1", attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Council finds and determines as follows:

1. The proposed 2006 Non-Motorized Transportation Master Plan is consistent with the Modesto Urban Area General Plan because it will further a goal of the Urban Area General Plan to promote alternative transportation.

2. The proposed 2006 Non-Motorized Transportation Master Plan will help promote bicycling and walking as transportation modes in Modesto.

3. The proposed 2006 Non-Motorized Transportation Master Plan will reduce traffic by promoting bicycling and walking for transportation and by increasing convenience and safety for people who choose to bicycle and walk.

4. The proposed 2006 Non-Motorized Transportation Master Plan will improve air quality by increasing convenience and safety for people who choose to bicycle and walk within Modesto.

5. The Project is compatible with surrounding, existing and planned land uses; will reduce traffic impact as compared to the Master EIR; will improve air quality; will have no significant effect on existing and planned open space; and will have no significant effect on existing and planned public facilities and public services.

BE IT FURTHER RESOVED that the Council hereby directs staff to return to the City Council with a plan for a Citizens Advisory Committee.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 9th day of January, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

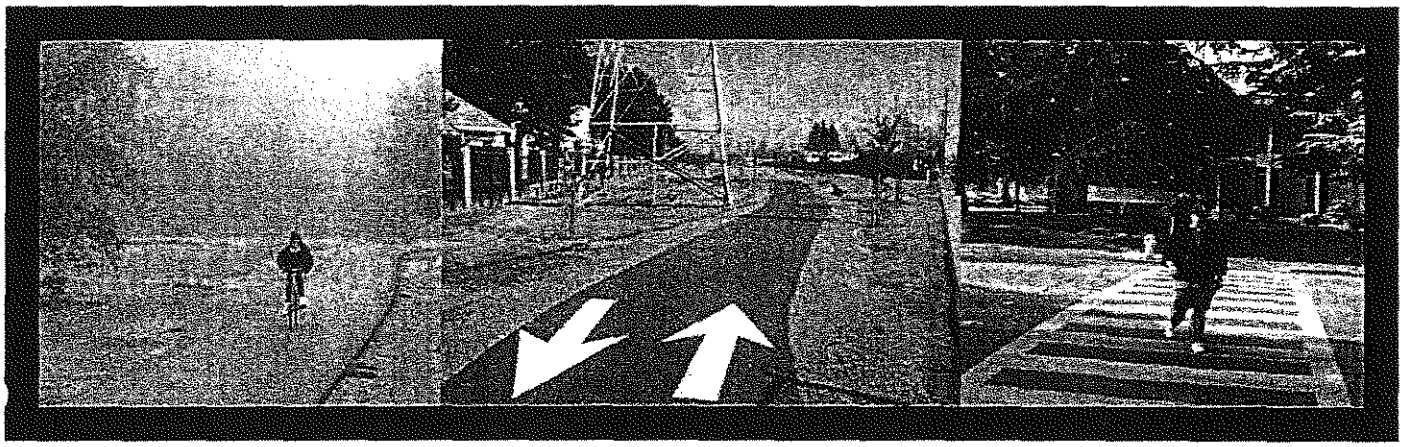
Ayes:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
Noes:	Councilmembers:	None
Absent:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: _____
SUSANA ALCALA WOOD, City Attorney

Modesto
NON-MOTORIZED TRANSPORTATION MASTER PLAN



December 2006

Prepared For: City of Modesto

City of Modesto Parks, Recreation and Neighborhoods

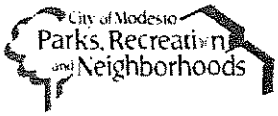
Prepared By: Alta Planning + Design

alta PLANNING + DESIGN

Modesto
NON-MOTORIZED TRANSPORTATION MASTER PLAN

December 2006

Prepared For:
City of Modesto
Parks, Recreation and Neighborhoods Department
1010 Tenth Street, Suite 4400
Modesto, CA 95353
Contact: Bob Ford, Project Coordinator



Prepared By:
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APPENDIX B: PROJECTS IDENTIFIED IN EXISTING MODESTO AND STANCOG BICYCLE PLANS

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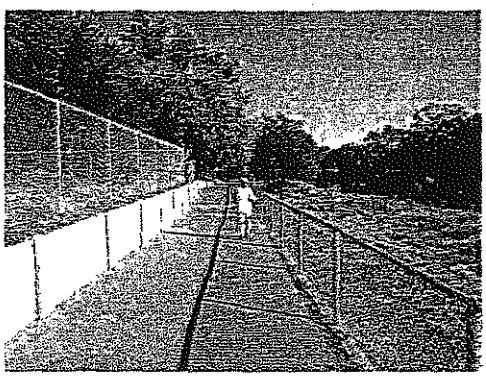
1. INTRODUCTION

The Modesto Non-Motorized Transportation Master Plan provides a blueprint for developing a citywide system of trails, bikeways, and other transportation and recreation facilities for non-motorized users. This document provides an Update to the 1996 Modesto Non-Motorized Transportation Master Plan. As with the 1996 Plan, this Update covers the full range of modes of travel in Modesto without a motor vehicle, including:

- Commute bicycling
- Recreational on-road bicycling
- Recreational off-road bicycling
- Walking
- Running
- Motorized and non-motorized wheelchairs
- Roller and in-line skating
- Skateboarding; and
- Other forms of non-motorized, wheeled transportation



The Dry Creek Regional Park Path, above, is an existing multi-use trail used by joggers, pedestrians, bicyclists and others, in Modesto, the City of Trees and Trails.

Bicycling is seen as an alternative transportation mode and considered one of the most cost-effective ways to reduce air pollution, traffic congestion, wear on local roads, petroleum consumption, and demand for additional roads. This Plan is intended to provide a blueprint towards making bicycling an integral part of daily life in Modesto.

NON-MOTORIZED IMPROVEMENTS

Although this Plan covers all forms of non-motorized transportation, the discussion of facilities throughout this plan will focus on the two major forms of non-motorized transportation: bicycling and walking.

BICYCLES

Like many communities around the United States, Modesto is experiencing a resurgence in interest in bicycling as a means of transportation. The bicycle is a low-cost and effective means of transportation that is quiet, non-polluting, extremely energy-efficient, versatile, healthy, and fun. Bicycles also offer low-cost mobility to the non-driving public, especially the young.

Bicycling as a means of transportation has been growing in popularity as many communities work to create more balanced transportation systems and reclaim streets from auto dominance. In addition, recent national and local surveys find that bicycling remains an important mode of transportation and recreation, and that more people are willing to cycle more frequently if better bicycle facilities are provided.[1]

Modesto stands poised to make major gains in increasing bicycle use, thanks to several factors:

First, Modesto has many of the attributes needed to become bicycle-friendly. This includes a moderate climate, flat terrain, a well-connected downtown street grid, numerous local parks and recreational attractions, geographic proximity to employment and school centers, as well as a population interested in health, environment, and livable neighborhoods. The popularity of recreational bicycling in Modesto can be seen on any weekend with families enjoying the Dry Creek or Hetchy Hetchy bike paths, or with the large bicycle club rides that head out of town to explore Stanislaus County's rural roads.

This plan addresses bicycles as a transportation mode of travel, defined as any trip that replaces a vehicle trip whether it be for commuting, shopping, traveling to and from school, or to reach a recreational destination.

Second, there is a history of bicycle planning in Modesto, as shown by the 1983 Modesto Bicycle Plan and 1996 Non-Motorized Transportation Master Plan. As bicycle facilities have been developed and more residents have been cycling for recreation, more have been commuting as well. Consequently, more have been advocating for improved cycling facilities. Groups such as the Stanislaus County Bicycle Club have been important advocates of bicycle facilities for both recreation and commuting.

Third, policy support and additional funding have recently been made available for bicycle transportation improvements. This has been true on the local and state level thanks to the 1994 California Bicycle Transportation Act and the 2000 Safe Routes to Schools programs. This has also been the case on the federal level through:

- 1990 Clean Air Act;
- 1991 Inter-Modal Surface Transportation Efficiency Act (ISTEA);
- 1998 Transportation Equity Act for the 21st Century (TEA21); and
- 2003 Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA)

These laws have provided for increased spending on bicycle travel and allow communities more flexibility in spending highway funding on alternative modes, such as bicycling, walking, and transit.

[1] *2002 National Survey of Bicycle and Pedestrian Attitudes and Behaviors*, U.S. Department of Transportation's National Highway Traffic Safety Administration and the Bureau of Transportation Statistics; Bureau of Transportation Statistics *Omnibus Household Survey*, February 2003; *National Survey on Recreation and the Environment (NSRE)*: 2000-2002. The Interagency National Survey Consortium, Coordinated by the USDA Forest Service, Recreation, Wilderness, and Demographics Trends Research Group, Athens, GA and the Human Dimensions Research Laboratory, University of Tennessee, Knoxville, TN; April 1991 *Lou Harris Poll* Commissioned by Rodale Press.

Already, these laws have led to over a billion dollars in bicycle, trail, and pedestrian projects nationwide, and thousands of miles in new bicycle lanes, sidewalks, multi-use trails and other non-motorized enhancements.

The increased ridership, resulting advocacy, and increased policy and financial support from all government levels have resulted in a desire for significant bicycle transportation improvements. The following Bicycle Transportation Plan is a direct result of these changes and is intended to set a proactive course toward making bicycling an integral part of daily life in Modesto.

PEDESTRIANS

Walking is the oldest and most basic form of human transportation. It is non-polluting, requires little infrastructure, and is integral to the health of individuals and their communities. People who walk know their neighbors and their neighborhood. A community that is designed to support walking is livable and attractive.

Although pedestrians have been valued for their contribution to urban vitality, walking, like bicycling, has not until recently been considered a serious means of transportation. Thanks in part to the passage of the 1991 ISTEA legislation and its companion funding opportunities, this is beginning to change. Communities are beginning to recognize the need and value of developing pedestrian facilities, whether it is to enhance safety, health, or for commuting.

Many of Modesto's neighborhoods provide a pleasant walking environment. But getting from housing areas to employment of transit by foot can be challenging. Routes that require walking on or crossing multi-lane arterials can discourage pedestrian activity. Opportunities certainly exist for improving the pedestrian system in Modesto, offering residents the option of walking to school, shop, or recreation.

PURPOSE OF THE PLAN UPDATE

Maximize Funding Sources for Implementation. A key reason for Updating the Non-Motorized Transportation Master Plan is to satisfy requirements of the California Bicycle Transportation Account, and other state and federal funding programs for bicycle transportation projects for which Caltrans plays an oversight and review role. In order to qualify for available funding, the State of California requires that applicants have an adopted master plan that includes the following specific elements:

- Estimated number of existing and future bicycle commuters
- Land use identification
- Existing and proposed bikeways
- Existing and proposed bicycle parking facilities
- Existing and proposed multi-modal connections
- Existing and proposed facilities for changing and storing clothes and equipment

- Bicycle safety and education programs
- Citizen and community participation
- Consistency with transportation, air quality, and energy plans
- Project descriptions and priority listings
- Past expenditures and future financial needs
- A description of public input used to develop the Bicycle Transportation Plan

Save lives. Reduce the accident and fatality rate for bicyclists and pedestrians through design standards and guidelines, education, and enforcement.

Provide needed facilities and services. Meet the demand and increased use of bicycles and other non-motorized transportation modes as a means of travel around the City. With the Federal Highway Administration's national goal of doubling bicycling by 2010, the bicycle commute share would increase from 558 adult commuters (2000 census) –approximately 0.75% mode share–to 1,116 adult commuters. Factoring in the potential for children bicycling to school, bicycle-to-transit trips, and other utilitarian trips, Modesto has the potential to increase the bicycle mode share to above one percent, beyond the state and national average.

Improve the quality of life in Modesto. Design and build people-friendly streets, sidewalks, paths, trails, and activity centers available to everyone, and support sustainable community development. Reduce traffic congestion, vehicle exhaust emissions, noise, and energy consumption by encouraging healthier and more active forms of travel. Encourage visitors to stop and enjoy Modesto on bicycle and foot.

Update Existing Plan and Set New Priorities. Identify existing network needs and recommend projects that will further enhance and improve bicycling and pedestrian conditions in Modesto. Projects identified in the 1996 plan are to be re-evaluated according to priority criteria including connectivity and network needs. New priorities emphasize providing designated bikeways to significant destinations such as downtown and the Amtrak train station, while encouraging increased commuter and recreational usage of safe and direct bikeways.

Become the "City of Trees and Trails." Modesto's quality of life derives from its rural and agricultural character. While Modesto becomes increasingly urbanized as population and development occur, the presence of tree groves and extensive recreational areas enhance the potential of Modesto ability to grow without threatening the environmental and recreational character that makes Modesto an attractive place to live. The greenway corridors provided of the Dry Creek and Tuolumne River parks provide vital recreational facilities that should be enhanced and expanded.

GOALS AND POLICIES OF PLAN UPDATE

Goals provide the context for the specific objectives and policy actions discussed in the Non-Motorized Transportation Plan Update. The goals provide the long-term vision and serve as the foundation of the plan. Goals are broad statements of purpose that do not provide specific descriptions of the objective, while policy actions provide a bridge between general policies and actual implementation guidelines, which are provided in the following sections.

Goals and Policy Actions of the Updated Non-Motorized Transportation Master Plan are as follows:

Goal 1: Expand and Improve Modesto's Non-Motorized Transportation Network

Policy 1.1. Complete a network of bikeways, walkways, trails and paths that serve all non-motorized user groups, including commuting, recreation, and utilitarian trips.

Policy 1.2. Seek funding for non-motorized transportation funding through current regional, state and federal funding programs, private funding opportunities such as endowments, corporate sponsorships and benevolent giving, and encourage multi-jurisdictional funding applications.

Policy 1.3. Monitor and evaluate information on collisions involving bicyclists and pedestrians and use this information to assist in remedying existing problem locations.

Policy 1.4. Develop and implement a signed and numbered route system for cross town commuter bicycle routes that serve major employment centers, schools, commercial districts, transit stations and institutions.

Goal 2: Plan for the Needs of Non-Motorized Users

Policy 2.1. Accommodate bicyclists, pedestrians, and other non-motorized users when planning, designing, and developing transportation improvements.

Policy 2.2. Review capital improvement projects to ensure that needs of non-motorized users (including pedestrians, bicyclists, and persons with disabilities) are considered in programming, planning, maintenance, construction, operations, and project development activities.

Policy 2.3. Encourage traffic calming, intersection improvements, or other similar actions that improve safety for pedestrians and bicyclists.

Policy 2.4. Require developers to adhere to the roadway design standards, signage and cross-sections identified in this Non-Motorized Transportation Master Plan

Goal 3: Provide for Regular Maintenance of the Non-Motorized Network

Policy 3.1. Develop a program for routine maintenance of bikeway and walkway network facilities including regular sweeping of bikeways and shared use pathways.

Policy 3.2. Include the costs of major maintenance needs of bicycle and pedestrian facilities when calculating the maintenance needs of streets and roadways generally.

Policy 3.3. Require that maintenance funding plan be in place at the time of project construction.

Policy 3.3. Require that repair and construction of transportation facilities minimize disruption to the bicycle and pedestrian environment, or provide alternate routes.

Goal 4. Encourage and Educate Residents of Modesto on Bicycling, Walking and other Non-Motorized Modes

Policy 4.1. Enforcement of pedestrian- and bicycle-related laws by the Modesto Police Department.

Policy 4.2. Develop adult and youth bicycle and pedestrian education and safety programs.

Policy 4.3. Develop and distribute a Trails Map illustrating the citywide non-motorized network and containing tips on bicycling and walking safety.

Policy 4.4. Support programs such as "safe routes to school" maps and "bike trains" or "walking school buses" for elementary students that would encourage more students to walk or bicycle to school

Goal 5: Implement the Non-Motorized Transportation Plan

Policy 5.1. Incorporate the Non-Motorized Transportation Master Plan into the Community Facilities Element of the Modesto Urban Area General Plan

Policy 5.2. Maximize coordination between Stanislaus County, adjacent municipalities, school districts and community organizations to review and comment on bicycle and pedestrian issues of mutual concern

Policy 5.3. Update the Plan periodically as required by Caltrans to reflect new policies and/or requirements for bicycle and pedestrian funding

PLAN CONTENTS

The Modesto Non-Motorized Transportation Master Plan Update is organized as follows:

- Chapter 2, Existing Conditions, provides a description of the existing bicycle and pedestrian conditions in Modesto. The conditions presented include the existing bicycle and trail network and support facilities and programs.

- Chapter 3, Planning and Policy Context, provides an overview of the relevant plan documents from Modesto and Stanislaus County.

- Chapter 3, Needs Analysis, documents the need for bicycle and pedestrian transportation in Modesto, including an overview of existing user groups, commuting statistics, accident data, and opportunities and constraints.

- Chapter 5, Bicycle Improvements, outlines the recommended Class I, II and III bikeway network, as well as bicycle-specific support facilities such as bike lockers. Chapter 5 also includes individual priority project sheets that provide additional data and cross-sections for key projects in the non-motorized transportation system.

- Chapter 6, Pedestrian Improvements, introduces the elements and actions necessary to create a safe, well-designed system of pedestrian facilities in Modesto.

- Chapter 7, Bicycle and Pedestrian Programs, outlines safety, educational and encouragement programs that apply to both bicyclists and pedestrians, as well as all forms of non-motorized transportation.

- Chapter 8, Implementation, provides an overview of the recommended non-motorized system costs, and presents a guide to construction and maintenance funding sources.

- Appendices:

    - Appendix A: Bikeway Planning and Design
    - Appendix B: Projects Identified in Existing Modesto and StanCOG Bicycle Plans
    - Appendix C: Non-Motorized Transportation Master Plan Survey Form
    - Appendix D: Non-Motorized Transportation Master Plan Public Meeting Notice
    - Appendix E: Sample Bicycle Parking Code Language
    - Appendix F: Construction Zone Treatments
    - Appendix G: Bicycle Commute and Air Quality Calculations

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2. EXISTING CONDITIONS

This chapter provides a description of existing conditions within the City of Modesto. Information is based on field visits, existing planning documents, aerial photographs, maps, and conversations with City of Modesto, Stanislaus County, and other agency staff.

SETTING

Modesto is located along Highway 99 in the center of the San Joaquin Valley, an agricultural region that extends 300 miles through central California. The city has diverse development, consisting of low- to medium-density residential, commercial and office space, and some industrial land uses. Outside of the urbanized area, agricultural land uses dominate; some of the region's top commodities include dairy products, almonds, apricots, melons, tomatoes, wine grapes, peaches, walnuts and poultry products. Due to its location on the valley floor, the topography in Modesto is generally flat. The Tuolumne River, a major Sierra drainage that extends from Yosemite National Park before dropping to the valley, passes south of downtown Modesto, and the Stanislaus River extends just north of the city.

With the exception of downtown, the city's northwest corner, and the commercial and industrial area south of Yosemite Boulevard, Modesto is a city of residential neighborhoods, and the places where people live are dispersed almost evenly throughout the City. Planning for the non-motorized transportation system needs to acknowledge that people live everywhere within the developed fabric of Modesto, and that the non-motorized transportation system should provide equal access to and from all areas of the City.

Since 1996, when the first Non-Motorized Transportation Master Plan was adopted, substantial growth and development has occurred in Modesto. Planning areas of the City that have been developed or are in the process of being developed include Village One, North Beyer, Enterprise Business Park, Carver-Bangs, Pelandale-Snyder, Coffee-Claratina, Northpointe, Hetch-Hetchy, Fairview, Mable, and Empire West. Much of this development has occurred on the north and west sides of the city.

AFFECTED JURISDICTIONS AND AGENCIES

Implementation of the non-motorized network will require cooperation from a number of jurisdictions and agencies that have control over land use decisions within and adjacent to Modesto, including the Stanislaus Council of Governments, Stanislaus County, cities of Ceres, Ripon, Riverbank, Salida and Empire.

City of Modesto

The City of Modesto encompasses a land area of approximately 36 square miles and a population of approximately 203,000. Modesto is the largest city and the seat of Stanislaus County. Modesto is surrounded primarily by unincorporated Stanislaus County lands that are in agricultural use. Modesto is bordered on the south by the City of Ceres, and a portion of the Riverbank Sphere of Influence borders Modesto to the north. Modesto's sphere of influence extends to Kiernan Avenue on the north.

City of Ceres

The City of Ceres is situated along Highway 99, on the south side of the Tuolumne River. Ceres is a growing community with a population of about 40,000 and a land area of about 7 square miles, surrounded primarily by the agricultural lands of Stanislaus County. Ceres borders the southern edge of Modesto's urban area.

City of Riverbank

The City of Riverbank is located northeast of Modesto, along the State Highway 108 on the south side of the Stanislaus River. Riverbank is a growing community with a population of about 17,500 and a land area of 3 square miles. Riverbank is surrounded primarily by the agricultural lands of Stanislaus County (on the south side of the river) and San Joaquin County (on the north side of the river). While Riverbank's street network does not abut Modesto's urban area, the Modesto planning area does border Riverbank's sphere of influence along the Stanislaus River.

County of Stanislaus

The County of Stanislaus encompasses a land area of approximately 1,500 square miles and a population of about 500,000. The County has nine incorporated cities: Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford. Stanislaus County is responsible for land use decisions for all unincorporated areas, which includes several communities such as Salida, La Grange, Knights Ferry, Grayson, and Westley.

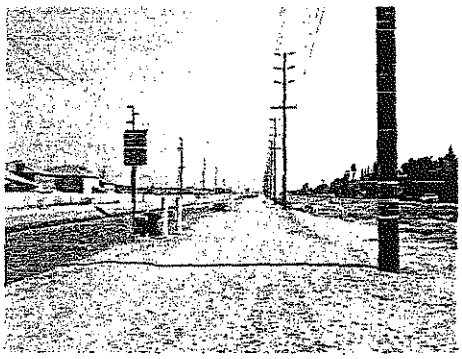
Stanislaus Council of Governments

The Stanislaus Council of Governments (StanCOG) is the designated Metropolitan Planning Organization and Regional Transportation Planning Agency for the Stanislaus County area. StanCOG is responsible for the preparation of the area's Regional Transportation Plan and Federal Transportation Improvement Program, as well as other regional planning activities such as collection of census and demographic information, and regional bicycle and pedestrian planning. The StanCOG Policy Board has the ultimate decision making responsibility and authority for StanCOG. It is comprised of sixteen voting members and one advisory member (Caltrans). Voting members include five representatives from the Stanislaus County Board of Supervisors, three council representatives from the City of Modesto, and one council representative from each of the other eight cities in the County.

Modesto Irrigation District

MID is a multi-purpose public utility district supplying electricity, irrigation and domestic water. Its primary customers are the residents and businesses in California's Central Valley. MID serves approximately 3,200 irrigation water customers and 64,000 irrigated acres. MID entered the domestic water business in 1994, when it began operations at its Modesto Regional Water Treatment

Plant, which treats and delivers up to 40 million gallons of surface water each day. Treated water is sold to the City of Modesto for distribution.



Portions of the MID lateral that runs parallel to Briggsmore Avenue, as shown in the photo above, may provide an ideal east-west corridor for a multi-use trail.

Turlock Irrigation District

The Turlock Irrigation District (TID) operates a number of irrigation canals in the southern portion of Modesto. The district owns and operates more than 250 miles of canals stretching from La Grange Dam on the Tuolumne River to the San Joaquin River and serves over 5,800 irrigation customers covering approximately 150,000 acres of farmland. TID also provides retail electricity to customers within its service area. The Tuolumne River is the source of most of the district's water.

San Francisco Public Utilities Commission

The San Francisco Public Utilities Commission (SFPUC) manages and operates the Hetch Hetchy water system. The Hetch Hetchy system is a 167-mile, gravity-driven network of dams, reservoirs, tunnels, pump stations, aqueducts and pipelines that collects Tuolumne River runoff in the Hetch Hetchy reservoir in Yosemite and transports it to the San Francisco Bay Area. The Hetch Hetchy water line extends through the northwestern quadrant of Modesto as an underground aqueduct within an approximately 100-foot wide easement. Overhead power lines extend along the Hetch Hetchy right-of-way. In addition, a 3-mile paved multi-use path has been constructed within the Hetch Hetchy right-of-way between Sisk Road and Semallon Drive.

Utilities

Various utility lines run above and below ground within Modesto, both along the developed roadway network and in separate easement corridors. These include Pacific Gas & Electric (electricity and natural gas), SBC (telephone and communications lines), Comcast (cable), and others. Installation or maintenance of these utilities, particularly along the roadway network, can cause inconveniences or create hazards for bicyclists and pedestrians.

Union Pacific Railroad

Rail corridors owned by the Union Pacific include the former Southern Pacific main line that parallels SR-99, as well as the former Tidewater Southern rail line that is being converted into the Virginia Corridor trail.

Atcheson, Topeka and Santa Fe Railroad

The Atcheson, Topeka and Santa Fe Railroad owns the rail corridor the runs along the eastern edge of Modesto. Amtrak passenger services operate within the ATSF rail corridor.

California Department of Transportation

The California Department of Transportation (Caltrans) has jurisdiction of the California State Highway system. Designated State Highways within Modesto include State Route 99, a major north-south freeway through the Central Valley, as well as State Routes 108 (McHenry Avenue and connecting streets) and 132 (Yosemite Avenue and Maze Boulevard).

Local Schools

Primary and Secondary Schools

Modesto has four primary school districts: the Modesto City Schools District in the central part of the city, Sylvan School District in the north, Empire School District in the southeast and Stanislaus Union School District in northwest Modesto. Approximately 20 to 25 percent of local traffic during the morning commute hour is now attributable to school-related trips.

Modesto Junior College

The Yosemite Community College District includes Modesto Junior College and Columbia College. Modesto Junior College is located in central Modesto, with facilities located on two sites, known as East Campus and West Campus, three miles apart. MJC has an enrollment of approximately 16,000 students.

EXISTING BICYCLE FACILITIES

DEFINITION OF BIKEWAYS

The three types of bikeways identified by Caltrans in Chapter 1000 of the Highway Design Manual are as follows. Detailed design guidelines for all three types of bikeways are provided in Chapter 5.

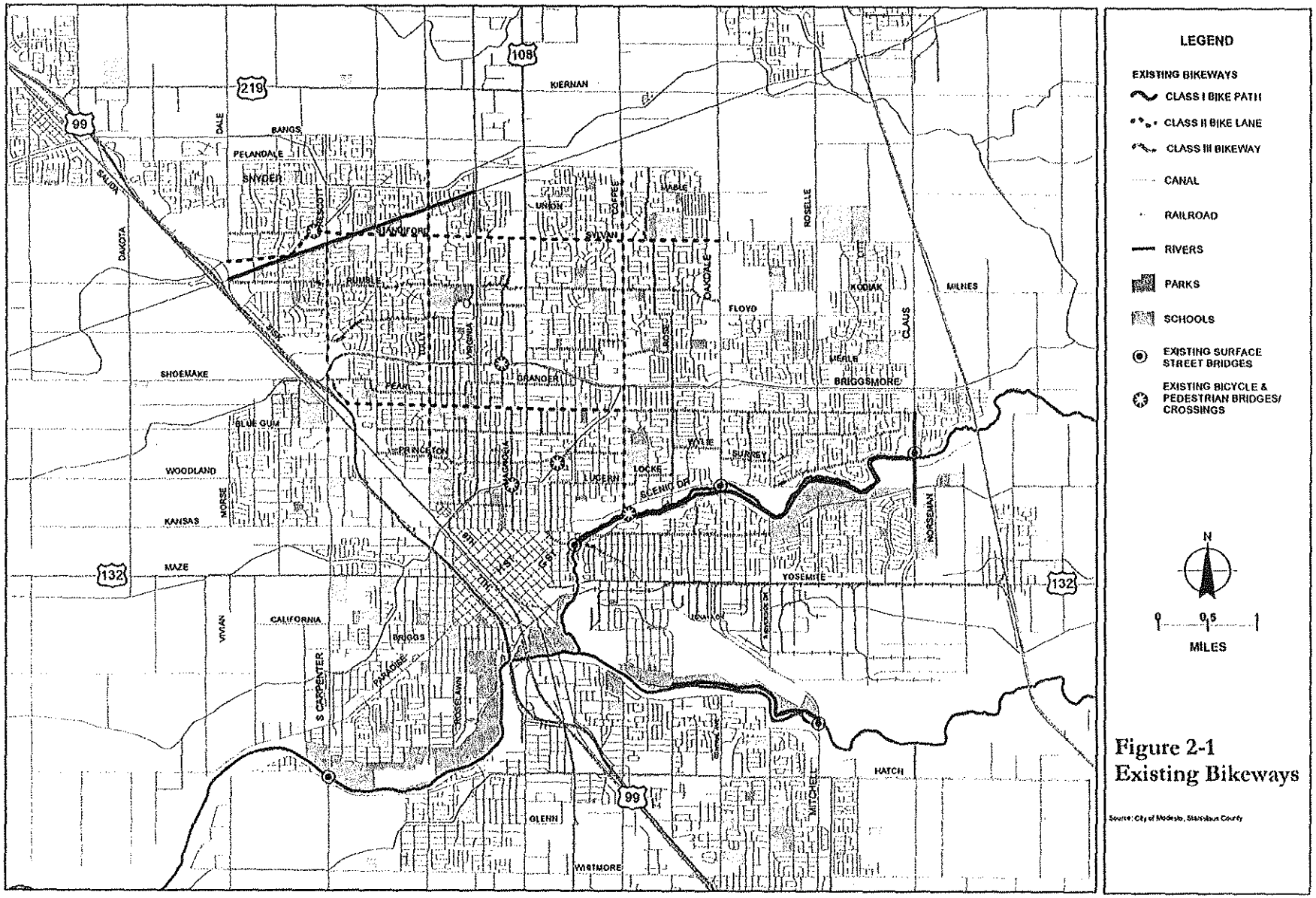
Class I Bikeway Typically called a "bike path," a Class I bikeway provides bicycle travel on a paved right-of-way completely separated from any street or highway.

Class II Bikeway. Often referred to as a "bike lane," a Class II bikeway provides a striped and stenciled lane for one-way travel on a street or highway.

Class III Bikeway. Generally referred to as a "bike route," a Class III bikeway provides for shared use with pedestrian or motor vehicle traffic and is identified only by signing.

One of the greatest divergences of opinion lies between those who feel paved bike paths, separated from roadways, should be constructed wherever physically possible, versus those who feel more comfortable riding on streets on lanes or routes. This preference is usually based on personal feeling regarding comfort and safety. There are also people who argue whether Class II bike lanes are effective, or conversely, that bike lanes should be installed wherever possible. Bike lanes provide an additional buffer between traffic and sidewalks, aiding pedestrians. When properly designed, bike lanes help improve the visibility of bicyclists. On streets with low traffic volumes and speeds (under 5,000 vehicles per day, 30 mph), bike lanes may not be needed at all. This is based on the potential for serious conflicts being so low that the cost of installing bike lanes is not warranted.

Modesto's existing bicycle network is shown in **Figure 2-1**. The network consists of both on- and off-street facilities. **Table 2-1** shows the limits and lengths of all existing Class I, II, and III bikeway segments in the city.


LEGEND
EXISTING BIKEWAYS
CLASS I BIKE PATH
CLASS II BIKE LANE
CLASS III BIKEWAY
CANAL
RAILROAD
RIVERS
PARKS
SCHOOLS
EXISTING SURFACE STREET BRIDGES
EXISTING BICYCLE & PEDESTRIAN BRIDGES/ CROSSINGS
N
0 0.5 1
MILES
99
219
108
132
KIERNAN
BANGS
PELANDALE
SNYDER
UNIVERSITY
SYLVAN
UNION
ABLE
FLOYD
KODIAK
MILNES
BRIGGSMORE
SHOEMAKE
BLUE GUM
PRINCETON
WOODLAND
KANSAS
MAZE
LUCERN
LOCKE
SUNSET
YOSEMITE
CALIFORNIA
BRIGGS
VIVIAN
S CARPENTER
ROSELAWN
HATCH
GLENN
WESTMORE
DALE
DAKOTA
SALIDA
PRESCOTT
VIRGINIA
MORSE
DAKDALE
ROSELLE
CLAUS
NORSEMAN
MITCHELL
SCENIC DR
TIM BELL
HWY
TAYLOR
Figure 2-1
Existing Bikeways
Source: City of Modesto, Stanislaus County

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EXISTING OFF-STREET BIKE PATHS

Hetch-Hetchy Path

The Hetch-Hetchy bike path is a 3.0 mile path that extends along the Hetch-Hetchy power and water right-of way between Sisk Road and Semallon Drive.

Dry Creek Bike Path

The Dry Creek bike path is a 5.5 mile path that extends through Dry Creek Regional Park on the south side of the creek between La Loma Avenue and Claus Road.

Tuolumne River Path

A 2.5 mile segment of bike path has been constructed on the north side of the river in Tuolumne River Regional Park in the vicinity of Modesto City-County Airport.

EXISTING ON-STREET BIKE LANES AND ROUTES

Modesto has a partially completed network of on-street bike lanes and routes, as shown in Figure 2-1. Currently there are approximately 14 miles of bike lanes, 37 miles of bike routes. Several key Class II segments exist, notably on Prescott Road, Tully Road, and Coffee Road. However, other primary north-south and east-west streets have only short Class II segments (such as Claus and Scenic) or lack bike lanes altogether (such as Oakdale). A number of existing Class III cross-town routes exist, connecting neighborhood schools and parks in many places (although the lack of destination signage, noted below, limits the functionality of these routes). The existing network is not evenly distributed geographically, as the entire southwestern quadrant of the city has only one short Class III segment.

Table 2-1
Index of Existing City of Modesto Bikeways

Name	From	To	Classification	Length (mi.)
Dry Creek	La Loma	Claus	I	4.24
Hetch-Hetchy	Sisk	Semallon	I	2.67
Tuolumne River	Tioga	Mitchell	I	1.72
Claus	Creekwood	Orangeburg	II	.94
Coffee	Scenic	Claratina	II	3.62
Orangeburg	Evergreen	Coffee	II	3.13
Prescott	W. Briggsmore	Hetch Hetchy ROW	II	1.28
Scenic	Sonoma	Lillian	II	.93
Standiford	Tully	Keller	II	2.31
Tully	Coldwell	N. City Limits	II	3.29
Balboa	Ensen	Sherwood	III	.12
Beyer Park Dr.	Forest Glen	Claratina	III	.70
Carlton	Pearl	Granger	III	.12
Carver	Evergreen	Pearl	III	.09
Center	Roselawn	Sunset	III	.13
Chrysler	Park Pl.	Prescott	III	.33
College	Ulrich	Rumble	III	1.49

Name	From	To	Classification	Length (mi.)
Encina	Vista	Riverside	III	1.88
Ensen	Orangeburg	Balboa	III	.09
Evergreen	Sisk	Carver	III	.51
Fairmont	Patricia	Coffee	III	.77
Floyd	Rose	Keller	III	.17
Forest Glen	Sylvan	Beyer Park Dr.	III	.08
Granger	Carlton	Sunrise	III	1.04
Griswold	Tully	McHenry	III	1.03
Harvard	Myrtle	Mills	III	.06
Hintze	McHenry	Patricia	III	.29
Keller	Floyd	Sylvan	III	.75
Kimble	Scenic	Lucern	III	.25
La Loma	Scenic	Santa Barbara	III	.87
Laramie	Sonoma	Lillian	III	.87
Lillian	Laramie	Woodbine	III	.06
Locke	Sunnyside	Rose	III	.37
Lucern	Kimble	Sunnyside	III	.87
Magnolia	Needham	Orangeburg	III	1.24
Mills	Harvard	Ulrich	III	.56
Mount Vernon	Prescott	College	III	1.36
Myrtle	Stoddard	Harvard	III	.29
Oakdale	Wylie	Surrey	III	.10
Orangeburg	Coffee	Claus	III	2.98
Patricia	Hintze	Fairmont	III	.27
Pearl	Carver	Carlton	III	1.13
Princeton	Carver	Tully	III	.54
Rose	Locke	Floyd	III	1.65
Roseburg	Carver	Sunrise	III	2.03
Roselawn	South	Center	III	.36
Rumble	Sisk	Oakdale	III	5.11
Santa Barbara	Yosemite	Encina	III	.48
Sherwood	Balboa	Standiford	III	1.67
Sonoma	Surrey	Laramie	III	.22
Springcreek	Woodbine	Glenbrook	III	.20
Stoddard	Tully	Magnolia	III	.86
Sunnyside	Lucern	Locke	III	.09
Sunrise	Roseburg	Fairmont	III	.18
Sunset	Center	Sierra	III	.12
Surrey	Oakdale	Sonoma	III	.50
Ulrich	Mills	College	III	.12
Veneman	Dale	Park Wy.	III	.72
Vista	La Loma	Encina	III	.16
Woodbine	Lillian	Springcreek	III	.27
Wylie	Rose	Oakdale	III	.50

Source:
City of Modesto, Existing Bicycle System Map, April 2002

SIGNAGE

Implementing a well-designed, attractive, and functional system of network signage greatly enhances bikeway facilities by promoting their presence to both potential and existing users. Currently, Modesto has only a few standard bike route signs. Many local street connections and continuous routes are not identified. Major destinations are not identified. The lack of good directional signage is considered to be a constraint to bicycling in the City. Particularly for Class III bike routes, which may follow curving neighborhood streets and occasionally shift a block or two in either direction, the lack of clear directional signage can be confusing for inexperienced cyclists. Destination signage can further help to clarify routes, particularly in locations where two routes cross. In addition, multi-use paths require additional standardized signs and stencils in order to help manage the multiple user groups.

BICYCLE DETECTOR LOOPS

Bicycle detector loops are sensors that activate traffic signals when a bicyclist positions his/herself where a loop detector is installed, in bicycle or auto travel lanes at signalized intersections. While bicycle detector loops facilitate faster and more convenient bicycle trips, if they are not calibrated properly or stop functioning they can frustrate cyclists waiting for the signal to change, unaware that the loop is not working. The City of Modesto has no bicycle-specific detector loops installed at this time.

BICYCLE PARKING

Bicycle parking is an important component in planning bicycle facilities and encouraging people to use their bicycles for everyday transportation. Bicycles are one of the top stolen items in most communities, with components often being stolen even when the bicycle frame is securely locked to a rack. Because today's bicycles are often high-cost and valuable items, many people won't use a bicycle unless they are sure that there is secure parking available at their destination(s). In California, parking facilities are classified as follows:

Class I Parking - Long Term

Class I bicycle parking facilities accommodate bicycles of employees, students, residents, and others expected to park more than two hours. This parking is provided in a secure, weather-protected manner and location. Class I bicycle parking includes a bicycle locker or a secure area like a 'bike corral' that may be accessed only by bicyclists. The new "day locker" (bike lid, eLocker, etc.) is a new bicycle locker concept that has gained recent popularity because it requires minimal program administration. These lockers allow for multiple users in the same day, therefore allowing these lockers to function similar to racks.

Class II Parking - Short Term

Class II bicycle parking facilities are best used to accommodate bicycles of visitors, customers, messengers, and others expected to depart within two hours. This parking is provided by bicycle racks, which provide support for the bicycle but do not have locking mechanisms. Racks are relatively low-cost devices that typically hold between two and eight bicycles, allow bicyclists to securely lock their frames and wheels, are secured to the ground, and are located in highly visible areas. Racks should not be designed to damage the wheels by causing them to bend. Bike racks

should be located at schools, commercial locations, and activity centers such as parks, libraries, retail locations, and civic centers, or anywhere personal or professional business takes place. .

Modesto Bicycle Parking Facilities

Many private employers provide bicycle parking facilities, and both the City of Modesto and Stanislaus County offices in downtown Modesto provide bicycle parking. Most public schools provide bicycle parking facilities, as do both the East and West campuses of Modesto Junior College. Street bicycle racks are installed at various locations in the downtown area, and in other commercial areas. Bicycle racks are also available at the Downtown Transit Center, and at the Amtrak Station.

There are no bicycle parking requirements in the Modesto Municipal Code, and it is up to individual businesses to provide racks for their employees or customers. Merchants can put in a request to the City to have bicycle racks installed outside their business free of charge. Modesto has an unspecified number of bicycle racks available to be installed upon request.

In addition to parking, a number of major employers also provide shower facilities for use by bicyclists and other non-motorized commuters. **Table 2-2** contains a list of Modesto's largest employers, and a summary of whether they provide bicycle racks and showers for their employees.

BIKEWAY SUPPORT FACILITIES

For the purposes of this Plan, bicycle support facilities refer to end-of-trip facilities that would encourage bicyclists to commute to work or other activities that require one to "clean up" after a ride. Typically, these amenities include showers and clothing locker facilities and can be located at places of employment. Such facilities are most often provided by building owners or tenants for use by those that work in the building. Although health clubs provide showers and clothing lockers, they are only available to their members.

Bicycle shops are important for bicyclists making trips between urban areas in the event they suffer an equipment failure and need repair parts or service. Parks and rest stops offer cyclists water, a place to sit or rest, and restroom facilities. Transit transfer stations extend the range cyclist can commute. Locations to shower and change clothes make commuting a more viable alternative.

Table 2-2
Bicycle Racks and Showers

Employer Name	Racks?	Showers?	Number of Employees
Modesto City Schools	Yes	No	4,950
ConAgra Foods, Inc.	Yes	Yes	1,000
E & J Gallo Winery	Yes	Yes	3,000
Memorial Hospital Association	Yes	No	2,422
Doctor's Medical Center	Yes	No	2,170
Modesto Junior College	Yes	No	1,377
SBC Pacific Bell	Yes[1]	No	1,175

Employer Name	Racks?	Showers?	Number of Employees
City of Modesto	Yes	Yes	1,174
Gallo Glass Co.	Yes	Yes	800
Gould Medical Group	Yes	No	784
The Modesto Bee	Yes	Yes	650
Sylvan Union School	No	No	645
Modesto Irrigation District	Yes	Yes	410
Foster Farms Dairy	No	Yes	350
Macy's	No	No	325
Doubletree Hotel	No	No	250
Weyerhaeuser	No	No	219

Sources:
Employer List based on City of Modesto Development Office Survey, July 2002
Rack and Shower information based on Alta Planning + Design telephone survey, May 2003

Notes:
1. Two of three facilities provide bicycle racks

PAST BICYCLE PROGRAM EXPENDITURES

Table 2-3 provides a summary of bicycle program expenditures in Modesto for the past 5 years.

Table 2-3
Past Bicycle Program Expenditures, 2001-2005

Project Name	Year	Cost
Hetch Hetchy Trail Construction (1.5 miles)	2001	$470,000
Peggy Mensinger Trail Construction (3.0 miles)	2001	$650,000
Maintenance of signage	2001-2005	$5,000
Bike Lane striping	2001-2005	$25,000
Asphalt overlay existing bike lanes	2001-2005	$300,000
Bike Lane sweeping	2001-2005	$40,000
Bike trail sweeping	2001-2005	$29,000
Landscape/irrigation	2001-2005	$31,000
Policing of Trails	2003-2005	$19,000
Total		*$1,569,000*

Source
City of Modesto, 2006

EXISTING PEDESTRIAN FACILITIES

A safe and functional pedestrian environment – one that encourages people to walk – is composed of numerous features that require careful planning, design, and maintenance. Sidewalks and pathways, the most basic elements, need to form a connected network. They need to be wide enough to comfortably accommodate the expected pedestrian volume. Surfaces should be kept as

smooth as possible. Intersections should have well-designed curb ramps on all corners. Marked crosswalks should remain highly visible. Traffic signal phasing should allow adequate time for pedestrians to cross. Finally, the connected network must provide access to destinations that attract pedestrian travel, such as schools and parks, neighborhood shopping, transit stops, libraries, and post offices.

The state of pedestrian facilities in Modesto is variable. Some places have good facilities and some places do not. In many neighborhoods, especially neighborhoods that were not developed as part of more formal subdivisions, or those that are located on the rural periphery, sidewalks are missing altogether. These more incrementally developed areas are often served by narrow roadways with neither shoulders nor sidewalks. Most of the rural roads on the periphery of Modesto have narrow travel lanes and no sidewalks. Adding sidewalks after the fact is difficult: adequate right-of-way is often un-available and many residents feel that sidewalks would not be in keeping with the area's "rural" character.

Downtown Modesto has a well-developed pedestrian system with wide sidewalks, clearly marked crosswalks, and slower vehicle speeds. Other "strip mall" commercial areas in Modesto often have narrow or discontinuous sidewalks or none at all. Many of these areas were developed along wide arterial streets to accommodate automobile access. The width of these streets requires considerable time for pedestrians to cross, especially younger and older citizens. While nearly all major arterial streets within the urban portions of Modesto have sidewalks, many of these roadways have sidewalks built directly adjacent to travel lanes. High vehicles speeds and the lack of a buffer can make walking on these roadways unpleasant.

FACILITIES FOR THE DISABLED

Persons with disabilities are particularly aware of design features that contribute to improved walking or rolling conditions. The Americans with Disabilities Act (ADA) of 1990 made the country realize the particular needs of physically and mentally impaired individuals. This civil rights act prohibits public entities from designing new facilities or altering existing facilities that are not accessible to people with disabilities. As a result of ADA, curb ramps are a basic component of all new sidewalk construction.

Sidewalk construction, curb ramp design, and other accessibility standards have been developed on a federal level in two documents, the Uniform Federal Accessibility Standards (UFAS) and the Americans with Disabilities Act Accessibility Guidelines (ADAAG). States are given the option to adhere to one of these, but may also adopt more stringent standards than the Federal minimum guidelines. Caltrans conforms to the policies of UFAS and Title 24 of the California Code of Regulations. Title 24, developed by the Division of the State Architect, has some stricter accessibility requirements than UFAS.

Designing pedestrian facilities to accommodate persons with disabilities improves the walking experience for all users. Curb ramps are helpful to parents pushing strollers, delivery persons pulling dollies or carts, and small children on bicycles. Wide sidewalks invite people to stroll side-by-side and enable wheelchairs, bicycles, strollers, and scooters to pass one another without conflict. Smooth surfaces reduce the risk of elderly pedestrians and small children tripping. Therefore,

whenever one is analyzing, planning, or designing pedestrian facilities, accommodating persons with disabilities must be of utmost concern.

As noted above, sidewalk conditions are mixed in Modesto. Newer sidewalks developed since passage of the Americans with Disabilities Act are required to have curb ramps that provide for the safe crossing of persons in wheelchairs. Many older neighborhoods constructed before passage of this law do not have curb ramps. In downtown Modesto, curb cuts have been installed at all intersections. Modesto currently has a program to install curb ramps on older sidewalks within the neighborhoods; the City installs approximately 80 curb ramps per year.

MULTI-MODAL CONNECTIONS

Multi-modal refers to the use of two of more modes of transportation in a single trip (i.e., bicycling and riding the bus or train). Improving the bicycle-transit link is an important part of making bicycling a part of daily life in Modesto. Linking bicycles with mass transit, including buses and community shuttle services, overcomes such barriers as lengthy trips, personal security concerns, and riding at night or in poor weather.

Making the multi-modal connection consists of two key elements: providing bicycle parking facilities at bus stops and bike racks on buses. Two other components include improving bikeways that link with transit facilities and stops and encouraging the use of multi-modal programs. Bicycling to transit in lieu of driving benefits the community by reducing air pollution, reducing the demand for parking, reducing energy consumption, and reducing traffic congestion with relatively low investment costs.

Existing multi-modal connections in Modesto are especially important when considering regional trip opportunities. Modesto is increasingly becoming a bedroom community for people who work west of the Altamont, in the Tri-Valley Area (Livermore, Dublin, Pleasanton, San Ramon), the San Jose area, the East Bay, or even San Francisco. While no direct commuter rail connection exists between Modesto and the Bay Area, bus connections are available to the Altamont Commuter Express Train (ACE) and to the Dublin-Pleasanton BART station. Ensuring bicycle access on these bus connections will extend the range of individuals at both ends of the trip.

Local bus service within Modesto is provided by Modesto Area Express (MAX). MAX services operates along major corridors in Modesto, the downtown area, the Amtrak station, Vintage Faire Mall, and to the adjoining cities of Ceres and Salida. All MAX buses are equipped with bicycle racks.

Regional bus service is provided by Stanislaus Regional Transit (START). START buses provide service from Modesto to surrounding cities and towns, including Riverbank, Oakdale, and Turlock. Bus service to Turlock includes a stop at California State University Stanislaus. All START buses are equipped with bicycle racks.

MAX operates the Modesto ACE Express bus providing direct service from northwest Modesto at the Stanislaus County Library satellite to the Lathrop/Manteca ACE train station. ACE (Altamont Commuter Express) provides rail service between Stockton and San Jose via the Altamont Pass, with intermediate stops including Livermore and Pleasanton. Service to and from the ACE station is provided only on weekdays during the morning and evening commute periods.

MAX also operates the Modesto BART Express bus providing direct service from the library satellite to the Dublin/Pleasanton BART station. Service to and from BART is provided only on weekdays during the morning and afternoon/evening commute periods.

Modesto's main Transportation Center is located downtown at 1001 9th Street (at J Street). The ACE Express and BART Express bus stops are located at the Park and Ride lot at the library satellite. Local bus service in Modesto is provided by Modesto Area Express (MAX). Bicycle racks are available on all MAX buses.

The Modesto Amtrak Station is located at Held Drive and Briggsmore Road in northeastern Modesto. This is a full service Amtrak station, with ticket and baggage handling and package express service available. From the Modesto station, service is provided on Amtrak's San Joaquin Corridor to cities including Bakersfield, Fresno, Merced, Stockton, Emeryville and Vallejo. Connecting buses provide service into the Los Angeles area.

Greyhound inter-city bus service is also available at the downtown Modesto Transportation Center.

ENCOURAGEMENT AND EDUCATION PROGRAMS

Coordinated bicycle safety events can have a positive affect on bicycle ridership because they address and appease safety concerns of potential riders and teach good riding habits. Without these programs, a forum does not exist to address safety concerns that are real or perceived.

The City of Modesto sponsors two community events in May to promote bicycle safety, bicycle commuting, and demonstrate how bicycling can become a viable form of transportation in decreasing traffic and parking congestion, and help improve air quality. Bike to Work Day is intended to promote safe bicycle commuting with the City. The event includes three Police escorted routes, where bicycle police officers will lead commuters from designated locations toward the downtown area and discuss the rules of the road.

The Family Cycling Festival includes a number of events to promote cycling. Activities include a bicycle safety check, bicycle rodeo/safety course, bicycle licensing. Bicycle stunt shows and an amateur criterium race are also being held to attract people to the event.

3. PLANNING AND POLICY CONTEXT

This chapter provides an overview of planning and policy documents of the City of Modesto, Stanislaus County and adjacent jurisdictions and agencies that are relevant to the Non-Motorized Transportation Master Plan. These include the existing City of Modesto Non-Motorized Transportation Master Plan (1996), the Modesto Urban Area General Plan, and the Stanislaus County Regional Bicycle Action Plan.

CITY OF MODESTO

MODESTO NON-MOTORIZED TRANSPORTATION MASTER PLAN (1996)

The City of Modesto adopted a Non-Motorized Transportation Master Plan in July 1996 (1996 Plan). This Non-Motorized Transportation Master Plan Update document serves to formally update the 1996 Plan, in accordance with Caltrans requirements. The stated purpose of the 1996 plan, and by extension this Plan, was to achieve the following goals:

- Address the concerns and interests of the residents of Modesto;
- Increase both commuting and recreational use of bicycles;
- Increase the number if people who choose to commute to work using other than motor vehicles;
- Coordinate the City's non-motorized transportation plan with those of neighboring cities and Stanislaus County; and
- Address recent State requirements for bicycle and non-motorized transportation planning.

The 1996 Plan discussed existing conditions related to non-motorized travel in Modesto, identified a comprehensive non-motorized transportation network, discussed non-motorized facility types and standards, identified goals, policies and programs for implementation, and identified potential funding sources. The 1996 Modesto Non-Motorized Transportation Master Plan identified the following 10 goals:

1. Continue developing a Citywide non-motorized transportation system that serves the following uses as alternatives to motorized transportation:
    - Commuter Bicyclists
    - Recreational On-Road Bicyclists
    - Recreational Off-Road Bicyclists
    - Walkers
    - Runners

- Wheelchairs
- Skateboarders; and
- Skaters

2. Coordinate Modesto's non-motorized transportation system with the systems of neighboring cities and the County.
3. Link the City's non-motorized transportation users to major destinations.
4. Establish a regular maintenance and hazard removal program to ensure safe and well-maintained non-motorized transportation facilities.
5. Continue and expand programs that provide and encourage support facilities for non-motorized transportation users.
6. Continue to establish policies encouraging new development patterns that support non-motorized transportation, such as the village concept.
7. Establish strong transit connections for those who use non-motorized transportation, and to accommodate their particular needs on public transit (i.e. bicycle racks on buses).
8. Work with irrigation districts, railroads and other owners of linear right-of-way that have the potential to accommodate non-motorized transportation facilities and thereby to strengthen the City's non-motorized transportation system.
9. Establish a comprehensive program of community education and feedback related to non-motorized ways of getting about.
10. Seek regular, dedicated local funding for developing the Modesto Non-Motorized Transportation Master Plan, and establish a program to seek regular State and other public development and maintenance funding as available.

To date, the 1996 Non-Motorized Plan has been only partially implemented. Some on-street bike lanes have been striped, and the development of several off-street bike path segments has moved forward since adoption of the 1996 Plan. However, much of the Recommended Long-Term Non-Motorized Transportation System remains to be implemented. Modesto's existing non-motorized transportation network is discussed in detail in the Existing Conditions section of this Plan Update.

As part of this Updated planning effort, the Long-Term system recommended in the 1996 Plan will be revisited in the context of the development that has occurred in Modesto over the past nine years. The non-motorized network, goals, policies and recommendations of this Updated Non-Motorized Transportation Master Plan, once adopted, will supersede those in the 1996 Plan.

MODESTO URBAN AREA GENERAL PLAN

The Modesto Urban Area General Plan, adopted in August 1995 and most recently amended in March 2003, serves as the city's "blueprint" for future growth. The General Plan is intended to guide the physical development of Modesto to the year 2025. The General Plan contains goals, policies and objectives intended to preserve Modesto's quality of life while providing direction for the growth of business and industry to meet the needs of future generations. Issues addressed in the General Plan include employment opportunities, defining Modesto's character, maintaining older

neighborhoods and upgrading unsafe neighborhoods, integrating new neighborhoods into the urban land pattern, reducing automobile traffic impacts, preserving agricultural lands, and environmental concerns. The Modesto General Plan includes eight chapters: Introduction, Community Growth Strategy, Community Development Policies, Housing, Community Services and Facilities, Public Safety Issues, Environmental Resources and Open Space, and General Plan Implementation.

The General Plan provides a set of directives and guidelines regarding bicycle and pedestrian guidelines. **Figure 3-1** shows the Adopted Land Use Diagram from the City of Modesto's General Plan.

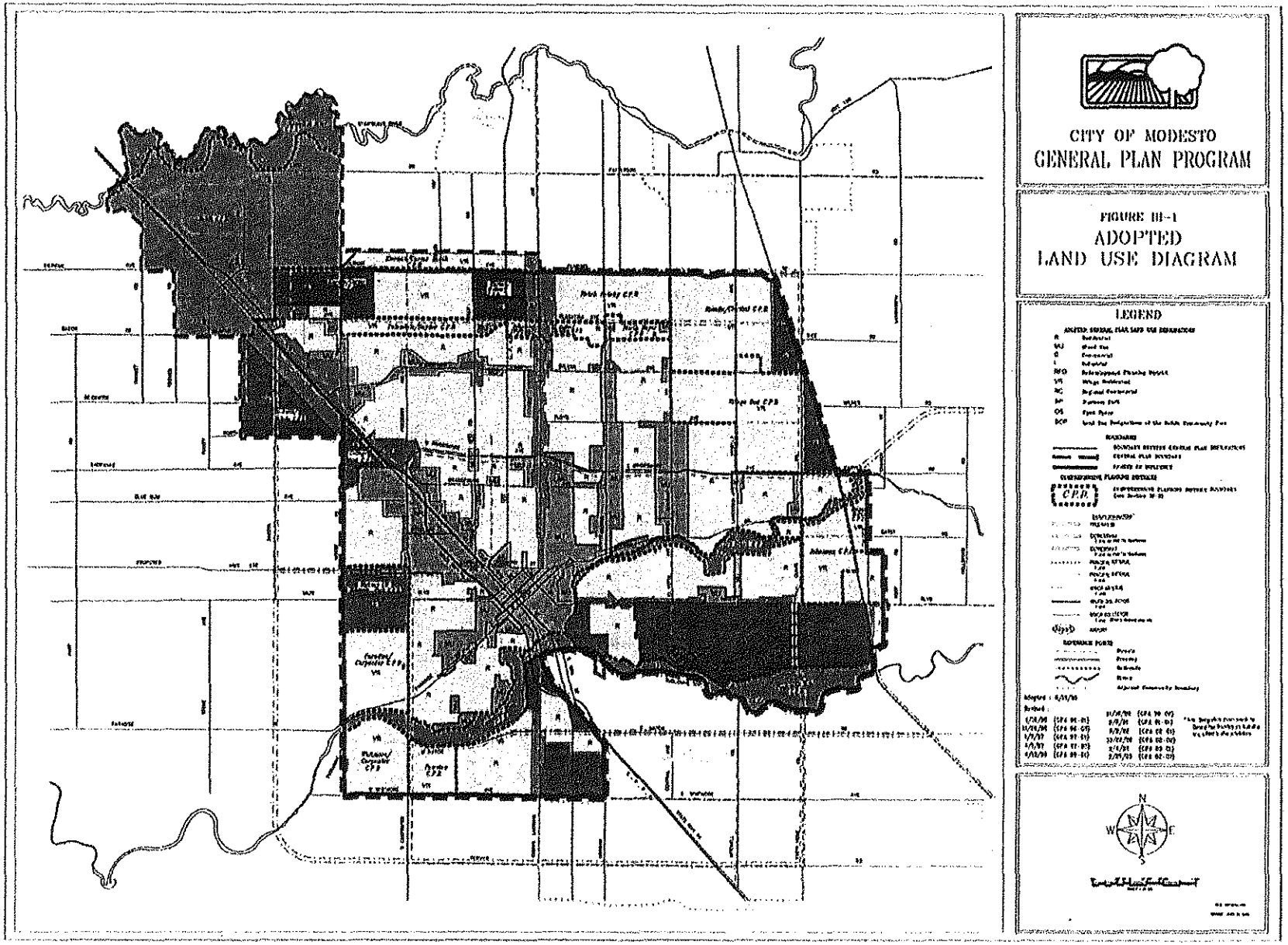
Within the introduction, the following is identified under "Overall Goals" of the General Plan:

> Transportation and Circulation systems that adequately provide for intra-city and regional transportation needs should be provided. Alternatives to the drive-alone auto mode, such as light rail, mass transit, ride sharing, bicycling, trail systems, and telecommuting should be encouraged to reduce traffic congestion and enhance air quality. The City's transportation planning should be coordinated with regional transportation planning efforts, wherever possible.

Chapter V., Community Services and Facilities, of the General Plan, include the Circulation and Transportation element of the Plan. This element includes the City's transportation diagram, provides for definitions of various roadway classifications, and includes policies related to the development of the transportation network.

Bicycle facilities are noted in the definition of several roadway classifications.

> Expressways - This classification defines high volume, access-controlled roadways which do not allow for pedestrian or bicycle movements in the traveled way.
>
> (1) Principal Arterial streets have six travel lanes with no bicycle lanes. The design speed is 45 mph. The typical right-of-way is 114 feet.
>
> (2) Minor Arterial streets have four travel lanes. Minor arterials can provide for bicycle lanes. The design speed is the same as principal arterials. The typical right-of-way is 100 feet.
>
> d. Collector Streets - This classification defines low-traffic-volume streets which can also serve pedestrian and bicycle traffic. Collector streets provide traffic circulation within residential neighborhoods, and commercial and industrial areas. Collector streets distribute trips from the arterials through the area to their ultimate destination and collect traffic from local streets and channel it into the arterial streets. There are two classes of collector streets:
>
> (1) A major collector street is a four-lane facility, with a design speed of 25-35 mph on a typical right-of-way of 84 feet without bicycle lanes or 96feet with two, 6-foot bicycle lanes.


CITY OF MODESTO
GENERAL PLAN PROGRAM
FIGURE III-1
ADOPTED
LAND USE DIAGRAM
LEGEND

(2) A minor collector street is a two-lane facility, with a design speed of 25-30 mph on a typical right-of-way of 60 feet without bicycle lanes or 72 feet with two, 6-foot bicycle lanes.

It is important to note that some of the Class II Bike Lane facilities recommended in Chapter 5 of this plan may not be feasible within the roadway buildout cross-sections identified in the Circulation Element of the General Plan. Future feasibility analysis of the ability of specific roadway segments to accommodate bike lanes, given anticipated buildout traffic volumes and lane configurations, will be required for a number of projects. Implementation of these Class II segments will require close coordination between the City's Community &Economic Development, Parks, Recreation & Neighborhoods, and Public Works Departments.

Policies related to non-motorized transportation facilities within the Circulation and Transportation element include the following:

Policy H. Development should be designed in a way that will encourage walking as an alternative mode to the automobile for transportation. Safe and convenient pedestrian facilities should be provided in residential, commercial and other areas when necessary.

Policy I. The use of the bicycle shall be promoted as an alternative mode of transportation. An adequate and safe bicycle system should be provided to connect residential areas with shopping and employment areas in and adjacent to the City for present and future transportation needs. Right-of-way for bicycle usage should be considered in the planning of new streets and in street improvements. Facilities for mode transfer from bicycle to park-and-ride lots, transit, and rail should be considered and provided when necessary.

Chapter V., Community Services and Facilities, of the General Plan, also include the Parks and Open Space element of the General Plan. This element provides policies and standards for development of the park and open space system. Policies related to non-motorized transportation facilities within the Circulation and Transportation element include the following:

Policy E. Dual-use flood control/recreation facilities shall be developed wherever feasible…

Policy F. Dual-use facilities shall be designed and constructed in accordance with the standards and criteria contained in the "Design Standards for Dual Use Flood Control/Recreation Facilities" manual.

City of Modesto Standard Specifications

The City of Modesto Street Standard Specifications set forth standards for design and construction of public and some private infrastructure within the City's sphere of influence. This document includes detailed specifications for roadways, including cross sections, lane widths, curb and gutter detail, intersection configurations, curb ramp detail, and drainage features.

Bike lanes are shown on specifications for Minor Arterials and Major and Minor Collectors. According to the specification notes for these roadway types, "striping for bike lanes shall be installed unless directed otherwise by the City Traffic Engineer." Bike lanes are shown to be 6 feet wide in all street specifications. Bike lanes are not shown on specifications for Principal Arterials or Expressways. Some Expressway specifications (e.g. Pelandale) show an 8 foot bike path parallel to the roadway shoulder.

Modesto Zoning Ordinance

The City of Modesto Zoning Ordinance contains the following language related to operation of a bicycle:

> No person shall propel a bicycle within any sidewalk area in any business district as defined by Section 235 of the Vehicle Code of the State of California. (Modesto Municipal Code 3-2.807)
>
> A bicycle which is licensed pursuant to this chapter may be operated upon all the streets, alleys and public ways of the city, except that no bicycle shall be operated on the sidewalk area in any business district as defined in the California Vehicle Code. (Modesto Municipal Code 3-3.12)

No other bicycle-related language is contained in the zoning ordinance.

STANISLAUS COUNTY

Stanislaus Council of Governments Regional Bicycle Action Plan

The Stanislaus County Regional Bicycle Action Plan was adopted by the Stanislaus Council of Governments (StanCOG) in July 2001. The plan develops goals, objectives and policies which are intended to implement the Regional Bicycle Transportation Master Plan adopted in 1996. The Bicycle Action Plan is intended to serve as a guide for planning and implementing regional bicycle facilities for transportation purposes. The Plan covers both incorporated cities such as Modesto as well as unincorporated lands under the jurisdiction of Stanislaus County.

The Plan includes a detailed list of potential bicycle facility improvements in Stanislaus County, along with the estimated costs.

4. NEEDS ANALYSIS

This chapter reviews the relationship between bicycle use, commute patterns, demographics, and land use in the City of Modesto. It identifies major activity centers and public facilities where bicyclists may be destined, along with the needs of recreational and commuter bicyclists. A review of the needs of each bicycle user group will help guide the type and routing of the bikeway system.

One of the primary reasons for creating the Non-Motorized Transportation Master Plan is to maximize the number of bicycle commuters in order to help achieve transportation goals such as minimizing traffic congestion and air pollution. In order to set the framework for these benefits, local and national statistics are used as a basis for determining the benefits of an improved and expanded bikeway network for Modesto.

LAND USE AND DEMAND

The concept of "demand" for bicycle facilities can be difficult to comprehend. Unlike automobile use, where historical trip generation studies for different types of land uses permits an estimate of future "demand" for travel, no such methodology exists for bicycling or walking. Land use patterns can help predict demand and are important to bikeway planning because changes in land use (and particularly employment areas) will affect average commute distance, which in turn affects the attractiveness of bicycling as a commute mode. The Modesto bikeway network will connect the neighborhoods where people live to the places they work, shop, recreate, or go to school. An emphasis will be placed on regional bikeway and transit connections centered around the major activity centers in Modesto, including:

- Downtown
- Civic Buildings and Libraries
- Major Employment Centers
- Commercial Districts
- Regional Shopping Centers
- Modesto Junior College (East and West campuses)
- Amtrak Station
- Downtown Transit Center
- Residential Neighborhoods
- Hospitals

COMMUTE PATTERNS

A central focus of presenting commute information is to identify the current "mode split" of people that live and work in Modesto. Mode split refers to the choice of transportation a person selects to move to destinations, be it walking, bicycling, taking a bus, or driving. One major objective of any bicycle facility improvement is to increase the "split" or percentage of people who choose to bike rather than drive or be driven. Every saved vehicle trip or vehicle mile represents quantifiable reductions in air pollution and can help in lessening traffic congestion.

2000 US CENSUS

Journey to work and travel time to work data was obtained from the 2000 US Census for Modesto, Stanislaus County, California, and the United States. Journey to work data is shown in **Table 4-1**.

Table 4-1
Journey to Work Data

Mode	United States	California	Stanislaus County	Modesto
Bicycle	0.4%	0.8%	0.7%	0.7%
Drove Alone	75.7%	71.8%	76.8%	78.8%
Carpool	12.2%	14.6%	15.0%	13.6%
Public Transit	4.7%	5.1%	1.0%	1.3%
Walked	2.9%	2.9%	2.4%	1.7%
Other	4.1%	4.8%	0.7%	0.5%

Source: U.S. Census 2000

As shown, about 0.7% of all employed Modesto residents commute primarily by bicycle, which is roughly the same as the national average of 0.4% and California average of 0.8%, and identical to the Stanislaus County average of 0.7%. This indicates that Modesto has a typical bicycling mode split for commuting purposes. It should be noted that the Census data does not give an indication of the number of people who bicycle for recreation or for utilitarian purposes such as shopping.

Travel time to work is shown in **Table 4-2**. Travel time is important because it can give an indication of the number of potential new bicycle commuters.

It has been suggested that a reasonable commute time, regardless of mode, is about 30 minutes. Assuming that travel occurs primarily on local roads during peak commute periods, a motor vehicle commute time of 15 minutes or less would be equivalent to about a 30 minute bicycle commute on flat terrain. In other words, converting an under-15 minute motor vehicle commute trip to a bicycle commute trips would still result in a reasonable 30 minute commute time. As shown in Table 4-2, about 36% of Modesto residents have a commute time of 15 minutes or less (most of these trips are drive alone, based on the city's mode split data). Total Modesto bicycle commuters (558) represent only about 1% of the number residents who live within a 30 minute bicycle ride of their workplace (53,155) – this means there is a substantial number of residents who are taking other modes for these short-distance commutes. While some of these people may be carpooling, taking transit, or walking, based on the fact that nearly 80% of all Modesto residents drive alone to work, it can be

assumed that the majority of these short-distance commuters are driving alone to work. Given this data, there is a substantial opportunity to capture some of the short distance (less than 15 minute) motor vehicle commute trips and convert them to bicycle commute trips.

Table 4-2
Travel Time to Work Data

	United States	California	Stanislaus County	Modesto
Less than 15 minutes	29.4%	25.3%	35.1%	36.0%
15 to 29 minutes	36.1%	35.4%	34.9%	36.6%
30 to 44 minutes	19.1%	20.9%	14.2%	12.3%
45 to 59 minutes	7.4%	8.2%	4.7%	4.2%
60 minutes or more	8.0%	10.1%	11.2%	10.4%

Source: U.S. Census 2000

TRIP REDUCTION AND POTENTIAL AIR QUALITY BENEFITS

Based on available census data on ridership, a rough projection of future bicycle ridership in Modesto along with the trip reduction and air quality benefits can be made. While these projections are only ambitious estimates, they are important to building an argument for investing in bicycle facilities and programs over time. For example, a traffic model is used to project future roadway improvements over time based on a straight-line assumption about auto use, fuel price, and other factors. The projection on bicycle use and benefits differs only in that it forecasts a minor change in modal choice -- not travel behavior – based on a combination of empirical and theoretical data. Research conducted around the U.S. by the U.S. Department of Transportation shows a definitive link between bicycle use and (a) age and (b) the miles of bicycle facilities provided. It is possible to derive a causal relationship from this information.

Modesto lies within the San Joaquin Valley Air Basin, which is regulated by the San Joaquin Valley Air Pollution Control District (Air District). According to the Air District, the air quality in the San Joaquin Valley Basin is among the poorest in the state. On average the Basin exceeds the Federal health-based standards for ground-level ozone 35 to 40 days per year, and exceeds the more stringent California standards for ozone more than 100 days per year. The Basin exceeds the Federal standards for airborne particles (PM10) less than five times annually, and exceeds the more stringent California standards for PM10 an average of 90 to 100 days per year.

Currently, the Basin is classified as extreme non-attainment for the Federal ground-level ozone and PM10 standards. The Basin is classified as severe non-attainment for the California ozone standard and non-attainment for the State PM10 standard. The Stanislaus County portion of the Basin is in attainment for both Federal and State carbon monoxide (CO) standards.

According to the Air District, motor vehicles account for approximately 57 percent of the air pollution in the Basin. Reducing vehicle miles traveled (VMTs) is a key goal of the Air District, and implementing the non-motorized transportation network will help achieve this goal by providing

Modesto residents safe and functional ways to get to work, school, or shopping without using a motor vehicles. The current number of daily bicycle commuters in Modesto is estimated to be 3,965 riders, making a total of 7,931 daily trips and saving an estimated 15,066 VMTs per weekday. With implementation of the non-motorized transportation network by 2020, it is estimated that bicycle commuting will increase to 11,053 daily bicycle riders making 20,105 daily trips and saving an approximately 41,992 VMTs per weekday.

Table 4-3 quantifies the estimated reduction in VMTs in Modesto following implementation of the non-motorized transportation network, and the estimated reduction in air pollutants based on the best available local and national data. The proposed bikeway system in Modesto will increase the bicycle mode share of trips from less than one percent in 2000 (U.S. Census) to over two percent by 2020. This will result in an estimated decrease of 773 lbs/day of PM10, 2,095 lbs/day of ROG, and 3,048 lbs/day of NOX.

BICYCLE AND PEDESTRIAN SAFETY AND ACCIDENT ANALYSIS

Safety is a major concern of both existing and potential bicyclists. For those who ride, it is typically an on-going concern or even a distraction. For those who don't ride, it is one of the most compelling reasons not to ride. In discussing bicycle safety, it is important to separate out perceived dangers versus actual safety hazards.

Bicycle riding on-street is commonly perceived as unsafe because of the exposure of a lightweight, two-wheeled vehicle to heavier and faster moving automobiles, trucks and buses. Actual accident statistics, however, show that bicyclists face only a marginally higher degree of sustaining an injury than a motorist based on numbers of users and miles traveled. Death rates are essentially the same with bicyclists as with motorists. Bicycle-vehicle accidents are much less likely to happen than bicycle-bicycle, bicycle-pedestrian, or accidents caused by physical conditions. The majority of reported bicycle accidents show the bicyclist to be at fault; generally, these involve younger bicyclists riding on the wrong side of the road or being hit broadside by a vehicle at an intersection or driveway.

Statewide Integrated Traffic Records System (SWITRS) accident data for bicycle and pedestrian collisions was collected for the calendar years 1998, 1999 and 2000 in Modesto, and is presented in **Table 4-4**.

Table 4-3
Bicycle Commute and Air Quality Projections

Current Commuting Statistics		**Source**
Population	189,460	*Source: 2000 US Census*
Number of Employed Persons	74,878	*Source: 2000 US Census*
Number of Bicycle-to-Work Commuters	558	*Source: 2000 US Census*
Bicycle-to-Work Mode Share	0.75%	*Calculated from above*
School Children Grades K-8	30,481	*2000 US Census, population ages 6-14*
Estimated School Bicycle Commuters	1,524	*Calculated based on existing estimates of biking to school*
Number of College Students	11,539	*2000 US Census*
Estimated College Bicycle Commuters	231	*Calculated based on existing estimates of biking to college*
Average Weekday MAX Ridership	11,600	*American Public Transportation Assn.*
Number of Daily Bike-Transit Users	102	*Calculated based on existing surveys of bike transit use*
Utilitarian Bicycle Trips	1,550	
Existing Bicycle Commuters		
Total Number of Bicycle Commuters	3,965	*Total of bike-to-work, transit, school, college and utilitarian bicycle trips. Does not include recreation.*
Total Daily Bicycle Trips	7,931	*Total bicycle commuters x 2 (for round trips)*
Reduced Vehicle Trips per Weekday	5,180	*Assumes 73% of bicycle trips replace vehicle trips for adults/college students and 53% for school children*
Reduced Vehicle Miles per Weekday	15,066	*Assumes average round trip travel length of 8 miles for adults/college students and 1 mile for schoolchildren*
Future Bicycle Commuters		
Number of Future Daily Bicycle Commuters	11,053	*Estimated using increase to 279% of baseline from 2000 Los Angeles County MTA study*
Future Total Daily Bicycle Trips	22,105	*Calculated from above*
Future Reduced Vehicle Trips per Weekday	14,438	*Calculated from above*
Future Reduced Vehicle Miles per Weekday	41,992	*Calculated from above*
Future Reduced Vehicle Miles per Year	3,794,540	*180 days for students, and 256 days for employed persons*
Future Air Quality Benefits		
Reduced PM10 (tons/weekday)	773	*(.0184 tons per reduced mile)*
Reduced NOX (tons/weekday)	2,095	*(.04988 tons per reduced mile)*
Reduced ROG (tons/weekday)	3,048	*(.0726 tons per reduced mile)*
Reduced PM10 (tons/year)	69,820	*(.0184 tons per reduced mile)*
Reduced NOX (tons/year)	189,271	*(.04988 tons per reduced mile)*
Reduced ROG (tons/year)	275,484	*(.0726 tons per reduced mile)*

Notes:
Sources as noted in the table. For detailed calculations, see "Estimation of Existing Bicycle Usage" spreadsheet provided in the Appendix to this Plan.

Table 4-4
Modesto Bicycle and Pedestrian Collision Summary 1998-2000

Number of Bicycle Collisions[1]									
2000		1999		1998		3 Year Total	Annual Average	Avg. Annual Collisions per 1,000 Population[2]	Relative Index[3]
Fatal	Injury	Fatal	Injury	Fatal	Injury				
2	91	1	70	1	110	275	92	0.49	1.4
Number of Pedestrian Collisions[1]									
2000		1999		1998		3 Year Total	Annual Average	Avg. Annual Collisions per 1,000 Population[2]	Relative Index[4]
Fatal	Injury	Fatal	Injury	Fatal	Injury				
2	85	4	79	2	78	250	83	0.44	1.1

Source: 1998-2000 Statewide Integrated Traffic Records System
Notes:
1. Total of both fatal and injury collisions for 1998-2000.
2. 2000 Census population for city of Modesto of 189,460.
3. Relative to California annual average of 0.36 bicycle collisions per 1,000 population for period of 1998-2000.
4. Relative to California annual average of 0.42 pedestrian collisions per 1,000 population for period of 1998-2000.

The Modesto Police Department enforces all traffic laws, for bicycles and motor vehicles as part of their regular duties. They ticket violators as they see them. This includes bicyclists who break traffic laws, as well as motorists who disobey traffic laws and make the cycling environment more dangerous. The level of enforcement depends on the availability of officers. The Police Department also responds to particular needs and problems as they arise.

BICYCLIST NEEDS

The purpose of reviewing the needs of bicyclists is twofold: (a) it is instrumental when planning a system that must serve both commuter and recreational user groups; and (b) it is useful when attempting to quantify future usage and benefits to justify expenditures of resources. According to a nationwide 1991 Lou Harris Poll, it was reported that "...nearly 3 million adults (about one in 60) already commute by bike, and projected the number could rise to 35 million if more bicycle friendly transportation systems existed." In short, there is a large reservoir of potential bicyclists who don't ride (or ride more often) simply because they do not feel comfortable using the existing street system and/or don't have appropriate bicycle facilities at their destination.

Key general observations about bicycling needs in Modesto include:

- Bicyclists are typically separated between experienced and casual riders. The U.S. Department of Transportation identifies thresholds of traffic volumes, speeds, and curb lanes where less experienced bicyclists begin to feel uncomfortable. For example, on an arterial with traffic moving between 30 and 40 miles per hour, less experienced bicyclists require bike lanes while more experienced bicyclists can comfortably use streets with wide curb lanes.

- Casual riders include those who feel less comfortable negotiating traffic. Others such as children and the elderly may have difficulty gauging traffic, responding to changing conditions, or moving rapidly enough to clear intersections. Other bicyclists, experienced or not, may be willing to sacrifice time by avoiding heavily traveled arterials and using quieter side streets. In some cases, casual riders may perceive side streets (or sidewalks) as being safer alternatives than major through routes, when in fact they may be less safe. Other attributes of the casual bicyclist include cycling shorter distances than the experienced rider and unfamiliarity with many of the rules of the road.

- The casual bicyclist will benefit from route markers, bike lanes, wider curb lanes, and educational programs. Casual bicyclists may also benefit from marked routes that lead to parks, museums, historic districts, and other visitor destinations.

- Experienced bicyclists include those who prefer the most direct, through route between origin and destination, and a preference for riding within or near the travel lanes. Experienced bicyclists negotiate streets in much the same manner as motor vehicles, merging across traffic to make left turns, and avoiding bike lanes and shoulders that contain gravel and glass. The experienced bicyclist will benefit from wider curb lanes and loop detectors at signals. The experienced bicyclist who is primarily interested in exercise will benefit from loop routes that lead back to the point of origin.

- Bicycles themselves range in cost from about $200 to over $2,000 for adult models. The most popular bicycle types today are the hybrid or mountain bike. These relatively lightweight bicycles feature wider knobby tires that can handle both on-road and off-road conditions, from 10 to 27 gears, and up-right handlebars. Advanced versions have features such as front and rear shocks to help steady the rider on rough terrain. The "10-speed" bicycles of years past have evolved into a sophisticated ultra-light "road bike" that is used primarily by the serious long distance adult bicyclists. These machines feature very narrow tires that are more susceptible to flats and blowouts from debris on the roadway.

- Who rides bicycles? While the majority of Americans (and Modesto residents) own bicycles, most of these people are recreational riders who ride relatively infrequently. School children between the ages of about 6 and 14 typically make up a large percentage of the bicycle riders today, often riding to school, parks, or other local destinations on a daily basis, weather permitting. The serious adult road bicyclist who may compete in races, "centuries" (100 mile tours) and/or ride for exercise makes up a small but important segment of bikeway users, along with serious off-road mountain bicyclists who enjoy riding on trails and dirt roads. The single biggest adult group of bicyclists is the intermittent recreational rider who generally prefers to ride on pathways or quiet side streets.

RECREATIONAL BICYCLIST NEEDS

The term "recreational" cyclist covers a broad range of skill and fitness levels. Recreational cyclists in Modesto can range from a "roadie" who joins 50 mile group rides on weekends, to a family with young children who occasionally want to ride a couple miles down a quiet bike path, and all levels in between. A cyclist's level of skill, fitness, and comfort on the road will determine what type of facility they are looking for. The needs of recreational bicyclists must be understood prior to developing a system or set of improvements. While it is not possible to serve every neighborhood

and every need, a good plan will integrate recreational needs to the extent possible. The following points summarize recreational needs:

- Recreational users cover all age groups from children to adults to senior citizens. Each group has their own abilities, interests, and needs.
- Directness of route is typically less important than routes with less traffic conflicts, visual interest, shade, and protection from wind, moderate gradients, or other features.
- People exercising or touring often (though not always) prefer a loop route rather than having to backtrack.

In order to characterize the differences in recreational cyclists, this study breaks this category into two subcategories: "Road Cyclists" and "Casual Cyclists," acknowledging that these are generalizations and that the average cyclist may have attributes of both user groups.

Road Cyclists

Road cyclists are those who will bike almost exclusively on street, because roadways are the type of facility that accommodates their desire for higher speeds, longer distances, and few conflicts with other recreational users. Typical trip distances for the road cyclist can range from 10 miles to over 50 miles. While the average road cyclist would likely prefer to ride on roads with little or no traffic, they are generally comfortable riding in traffic if necessary. To this end, a road cyclist will tend to ride in a manner similar to a motor vehicle (e.g. when approaching traffic signals or making left turns). Road cyclists are typically not seeking a recreational destination along the route, as the ride itself is the recreation. In fact, special cycling clothing and shoes and the lack of a bicycle lock, tends to limit the ability of the road cyclist to park and walk around off the bike.

Due to the relatively narrow width and thin casing of standard road bike tires, road cyclists are often susceptible to flat tires. As such, road cyclists are very concerned about glass, rocks, and other debris on the road or in the shoulder. In addition, loose material on the road such as sand or gravel can cause skinny road tires to lose traction and wash out on curves. Since most road debris tends to end up in the shoulder, road cyclists will tend to move into the travel lane if any debris is present in the shoulder that might cause a flat tire or other hazard. This can sometimes lead to conflicts with motor vehicles, as many motorists don't understand why a cyclist is riding in the lane if there is a seemingly good shoulder available.

The Stanislaus County Bicycle Club offers a number of regular group rides for road cyclists in the area. Several of these rides depart from Modesto, and head out on rural roads toward Riverbank, Oakdale, Knights Ferry, and other destinations. These cyclists typically want to get out of the urban area as quickly as possible and onto more scenic, low-traffic rural roads that are not interrupted by as many traffic controls, cross-streets, and other potential conflict points.

Casual Cyclists

Casual recreational cyclists are those who generally want to ride on off-street bike paths, are seeking a more relaxed cycling experience, and cover shorter trip distances at slower speeds. Casual cyclists will tend to do trips of less than 10 miles in length, and often ride more comfort-oriented bikes,

hybrid or mountain bikes. Casual cyclists may ride as a family group, with children, and because they are more likely to ride with others of varying skill and fitness levels, flat topography is generally desired. Casual cyclists are typically not comfortable riding in traffic, and will avoid riding on busy streets when possible, riding on the sidewalk if necessary. Bike routes that extend through low-traffic residential streets are generally acceptable for casual cyclists, even if they are not the most direct route between destinations. Casual cyclists may load their bikes in their cars and drive to a bike path, and are more likely in need of parking areas. Having recreational amenities and features along the route is more important to the casual cyclists, such as drinking fountains, shaded areas, picnic tables, interpretive signs, and scenic vistas. Recreational destinations are also important for casual cyclists, as they provide a place to stop and get off the bike and walk around. To this end, having secure bike parking at destinations is important.

Modesto currently offers several excellent recreational bicycle routes for different types of bicycle riders. These include bike paths for the less experienced rider such as the Dry Creek Bike Path, Hetch-Hetchy Path, and Tuolumne River Park path. Low-traffic farm roads outside the City limits offer longer distance riders options for multi-hour rides; however cyclists that live in Modesto want good routes to access these roads.

Some of the most obvious deficiencies for bicyclists in Modesto are the lack of public awareness of bicycling opportunities and the lack connectivity to regional recreation destinations and facilities such as parks and rest stops. Many roads within the City lack shoulders or sufficient width for bicyclists, inhibiting some of the less adventuresome riders. Finally, there is demonstrated demand for additional bike paths where families, children, and others can ride closer to home without having to worry about traffic.

One common problem on bike paths or multi-use trails is conflicts between bicyclists, pedestrians, roller bladers, and others. As a bike path begins to exceed 200 people per hour, those conflicts become more of a problem unless the path has adequate width (at least 8 feet), unpaved shoulders for walkers, and adequate signing and enforcement. Regardless of the design and operation, many experienced riders choose not to use bike paths because of the unpredictability of other users. Accident studies have shown that most bicycle-related accidents involve other bicyclists or pedestrians, rather than automobiles. As such, bike paths should be designed to separate users as much as possible and the system should not depend on bike paths for critical connections to serve all riders.

With a favorable climate and topography available to meet the needs of the average rider, as well as the most advanced, recreational riders abound in Modesto. Bicycle clubs such as the Stanislaus Bicycle Club provide both the serious and casual recreational rider the opportunity to ride socially and be guided through the maze of country roads to scenic destinations.

These recreational routes will be used as part of the evaluation criteria for selecting connection points to destinations outside Modesto. Recreational bicyclist needs will be met by planning, designing, and implementing a series of bike routes that connect to adjacent cities in Stanislaus County, as well as increase accessibility to routes that lead outside town and cities away from traffic and congestion.

COMMUTER BICYCLIST NEEDS

As this Non-Motorized Transportation Plan, and available state and federal bicycle funding is primarily focused on commuting cyclists – those riding to work or school, or for shopping, errands, and other utilitarian trips -- it is important to understand the specific needs of bicycle commuters.

Commuter bicyclists in Modesto range from employees who ride to work to a child who rides to school to people riding to shops. Millions of dollars have been spent attempting to increase the number of people who ride to work or school, with moderate success. Bicycling requires shorter commutes, which runs counter to our many of our nations past land use and transportation policies, which effectively encouraged people to live further, and further from where they work. Access to transit helps extend the commute range of cyclists, but transit systems also face an increasingly dispersed live-work pattern that is difficult to serve. Despite these facts, Modesto has a great potential to increase the number of people who ride to work or school because of (a) concentrated employment centers such as downtown and the industrial areas, (b) a favorable, flat topography, (c) a moderate climate, and (d) a high percentage of work trips that are less than 20 minutes.

For example, bicycle commuters in the City of Davis have reduced peak hour traffic volumes by over 15 percent -- to the point that many downtown streets that would normally be four lanes of traffic (with no bike lanes) have only two traffic lanes and ample room for bicyclists. While Davis may be an anomaly, national surveys have shown that about 20 percent of the adult population would use a bicycle to ride to work at least occasionally if there were a properly designed bikeway system.

Commuter and student destinations in Modesto include downtown, industrial employment areas, office parks, agricultural processing operations, hospitals, elementary, junior high and high schools, and the Modesto Junior College campuses. Targeting bikeway improvements to commuters is important because most roadway congestion and a significant portion of air contaminants occur during the AM and PM periods.

Key commuter needs are summarized below.

- Commuter walking or bicycling typically falls into one of two categories: (1) adult employees, and (2) younger students.
- Commuter trips range from several blocks to one or more miles.
- Commuters typically seek the most direct and fastest route available, with regular adult commuters often preferring to ride on arterials rather than side streets.
- Commute periods typically coincide with peak traffic volumes and congestion, increasing the exposure to potential conflicts with vehicles.
- Places to safely store bicycles are of paramount importance to all bicycle commuters.
- Major commuter concerns include changes in weather (rain and Tule fog), riding in darkness, personal safety and security.

- Rather than be directed to side streets, most commuting cyclists would prefer to be given bike lanes or wider curb lanes on direct routes.
- Unprotected intersections in general are the primary concerns of all bicycle commuters.
- Many younger students use sidewalks for riding to schools or parks, which is acceptable in areas where pedestrian volumes are low and driveway visibility is high. Where on street parking and/or landscaping obscures visibility, sidewalk riders may be exposed to a higher incidence of accidents. Older students who consistently ride at speeds over 10 mph should be directed to riding on street wherever possible.
- Cyclists riding the wrong-way on-street are common and typically account for many recorded accidents, pointing to the need for education

As noted earlier, Modesto, like most of California and the country, currently has a bicycle commute mode split of less than one percent. The National Bicycling and Walking Study adopted by the U.S. Department of Transportation calls for a five-percent bicycle commute mode split by the year 2005.

Commuters and students follow similar paths, which is typically the most direct possible route from origin to destination. For grammar school students, this may consist of residential or collector streets, with few crossings of major arterials. For junior high and high school students, riders may have to cross up to five or six arterials to reach school. For college students and adult commuters, trips are most often under five miles but may be as long as 10 or 15 miles.

Unfortunately, commuters and students need to travel during periods of peak traffic activity, and to destinations that may have high levels of congestion and traffic volumes/speeds. For example, one of the most dangerous parts of a young student's commute is the drop-off zone in front of their school where dozens of vehicles jockey for position.

Once they have arrived at their destinations, bicycle commuters often find no (or poor) bicycle racks, and no showers or lockers. Rather than providing an incentive for bicyclists, most schools and employers inadvertently discourage bicyclists while continuing to subsidize parking for the automobile.

Commuting bicyclists have very obvious and straightforward needs. They require bike lanes or wider curb lanes along all arterials and collectors, loop detectors at signalized intersections, new signals where school children need to cross busy arterials, adequate maintenance of the pavement, and adequate bicycle storage and showers at their destinations. Any other local or employer based incentive to encourage bicycling to work would help to achieve the five-percent commute goal.

Most commute bicycle trips are under five miles and therefore not regional trips, except for those commuters linking to another mode such as at an Amtrak Station, transit stop, or park and ride lot. Allowing bicycles on other modes such as rail or bus, or providing bicycle lockers at multi-modal stations will help extend the range of the bicycle commuter. Other bicycle commuters will depend on a well-devised local bikeway network produced by a city in its bicycle transportation plan.

These destinations noted above will be used as criteria in the selection of the Updated Non-Motorized Transportation network.

PEDESTRIAN NEEDS

Pedestrians in Modesto can be categorized depending on trip types. Pedestrian trip types include those associated with: traveling to work, transit or other multi-modal facilities, school, recreation and entertainment, health and exercise, shopping, social events, personal errands, appointments, and linked trips (for example, running errands on the way to work). Pedestrian needs for different trip types vary. For example, a commuter may desire a well-connected direct route with efficient signal timing, while a recreational pedestrian may be more concerned about the aesthetics of the surroundings. However, all pedestrians have several needs in common, such as safety, connectivity, and accessibility. These are the primary needs that have been identified in Modesto.

Pedestrians can also be grouped into several user classes based on age. Pedestrian systems should generally be designed to accommodate all age groups. **Table 4-5** identifies and defines these age groupings.

Table 4-5
Age-Based Pedestrian Characteristics

Age Group	Characteristics
Age 0 to 4	• Learning to walk • Developing peripheral vision, depth perception • Requiring constant parental supervision
Age 5 to 12	• Increasing independence but still requiring supervision • Susceptible to "dart out" or intersection dash • Poor depth perception
Age 13 to 18	• Sense of invulnerability • Intersection dash
Age 19 to 40	• Active, fully aware of traffic environment
Age 41 to 65	• May be some slowing of reflexes
Age 65+	• Some street crossing difficulty • Some difficulty hearing vehicles approaching from behind • Poorer vision • High fatality rate

Pedestrian mobility networks should consider persons with disabilities. The Americans with Disabilities Act (ADA) mandates that reasonable accommodation for access should be afforded those who may need such assistance. The specific accommodations needed for West Hollywood are described in more detail in Chapter 6. The City has already incorporated many accommodations, including curb ramps for wheelchair access on sidewalks, audible pedestrian signals for the vision impaired, and smooth surfaces on sidewalks.

Based on field observations and input provided in the public input process, the most critical needs of pedestrians in Modesto include the following.

1. Increase safety and visibility at unsignalized crosswalks
2. Increased enforcement of traffic laws
3. Implementation of a motorist and pedestrian educational campaign
4. Widened sidewalks along some streets
5. Removal of utility poles and other obstacles on sidewalks
6. Improved maintenance of sidewalks and crosswalks

OPPORTUNITIES AND CONSTRAINTS

CANAL RIGHTS-OF-WAY

Modesto has several irrigation canal laterals, linear corridors that provide an opportunity to accommodate off-street non-motorized transportation facilities. The major irrigation laterals within Modesto are under the jurisdiction of the Modesto Irrigation District and the Turlock Irrigation District. These irrigation laterals pass through both urbanized and non-urbanized portions of Modesto. It is within the urbanized areas that the canals provide the greatest opportunity to accommodate bicycle or pedestrian pathways.

A number of irrigation canal rights-of-way were identified in the 1996 Non-Motorized Transportation Master Plan as "Proposed Paths." These include segments of Laterals Number 1, 2, 3, 4, 5, and 6 that pass within the urbanized portion of Modesto. To date, no trail development has occurred along any irrigation canal rights-of-way within Modesto.

Modesto Irrigation District has been reluctant to allow public bikeway development on the canal rights-of-way, primarily due to concerns about liability, safety, trespassing, vandalism, and disruptions in maintenance. Adjacent landowners may also be opposed to developing a trail on a canal right-of-way that borders their property, due to concerns about safety and trespass and loss of privacy. Many homeowners that live adjacent to canal rights-of-way already use the unpaved maintenance roads along the canal as informal recreational trails, and there is often reluctance to develop these as formal trails due to concerns about bringing more people to an area.

HETCH-HETCHY AQUEDUCT RIGHT-OF-WAY

The Hetch-Hetchy water pipeline, which is operated by the San Francisco Public Utilities Commission, extends diagonally east-west through the northwestern portion of Modesto. The water pipeline supplies water from Hetch-Hetchy Reservoir in Yosemite National Park to the City of San Francisco. The pipeline is below ground through the City of Modesto, on a right-of-way that is approximately 100 feet in width. High-tension power lines are located above ground along the right-of-way.

The Hetch-Hetchy right-of-way was identified in the 1996 Non-Motorized Transportation Master Plan as a Proposed Path across the entire City limits. After reaching an agreement with the City and County of San Francisco, the City of Modesto developed a three-mile Class I bike path along the Hetch-Hetchy right-of-way from Sisk Road to Semallon Drive. The next phase of the Hetchy-Hetchy bike path will extend east to McHenry Avenue, and then beyond to Claribel Road

MAIN RAIL LINES

Two main rail lines pass through Modesto: the Union Pacific Line on the western edge of town that parallel SR-99, and the Atcheson, Topeka and Santa Fe lines that extend along the eastern edge of town. Both lines are main freight rail lines between northern and southern California. Amtrak passenger service runs on the ATSF corridor, stopping at the Modesto Amtrak station off Briggsmore Avenue. As with irrigation canals, linear rail line corridors provide an opportunity to accommodate off-street non-motorized transportation facilities.

The 1996 Non-Motorized Transportation Master Plan shows the ATSF corridor as a Proposed Path. The UP right-of-way is not shown as a proposed path; instead a pathway is shown following SR-99 in this corridor.

As with the canal rights-of-way, railroad operators are often reluctant to allow public bikeway development on along active rail corridors, primarily due to concerns about liability, safety, trespass, vandalism, and disruptions in maintenance. However, numerous bicycle paths have been built alongside active rail lines across the United States. With proper design features, these "rail-with-trails" can serve as excellent transportation and recreational corridors for non-motorized uses. Specific rail-with-trail design issues are discussed in the design guidelines chapter of this Master Plan.

VIRGINIA CORRIDOR

The former Tidewater Southern rail corridor, subsequently purchased by Union Pacific railroad, was formally abandoned in 2000. The City of Modesto acquired the corridor, and began planning efforts to develop a recreational trail known as the "Virginia Corridor" trail. Phase II of the Virginia Corridor trail will extend from Roseburg to Orangeburg. In April 2003, the tracks were removed from the Virginia Corridor, and construction of the Phase I is expected to be completed at the end of 2004. Ultimately, the Virginia Corridor trail is expected to extend from Needham Street in downtown Modesto north to Bangs Avenue at the northern City Limit.

STATE ROUTE 99

State Route 99 (SR-99) is a major north-south freeway that extends diagonally southeast to northwest through the western portion of Modesto. SR-99 poses a considerable barrier to east-west non-motorized transportation. It provides few crossing locations, and high-speed traffic at the freeway ramps may make it uncomfortable for bicyclists and pedestrians.

SR-99 crossing locations within the city of Modesto are:

- Pelandale Avenue (overcrossing)
- Standiford Avenue (overcrossing)
- Carpenter Road (overcrossing)
- Coldwell Avenue (overcrossing)
- Kansas Avenue (overcrossing)
- Maze Boulevard (overcrossing)
- K Street (overcrossing)
- I Street (overcrossing)
- H Street (overcrossing)
- G Street (overcrossing)
- Sierra Drive (overcrossing)
- Tuolumne Boulevard (undercrossing)
- Zeff Road (undercrossing)
- Crows Landing Road (overcrossing)
- 9th Street (overcrossing)

TUOLUMNE RIVER, DRY CREEK, AND STANISLAUS RIVER CORRIDORS

The Tuolumne and Stanislaus Rivers and Dry Creek present both opportunities and constraints to the development of the non-motorized transportation system. Both the Tuolumne River and Dry Creek have existing parkland and bicycle paths adjacent to their banks. Extending the Tuolumne River bike path system, and connecting to the existing Dry Creek path presents a tremendous recreational opportunity. The Tuolumne River Regional Park Master Plan calls for this pathway to be extended along the river for the entire length of the Park between Carpenter Road and Mitchell Road for a total distance of approximately 7 miles. A connector path to the Dry Creek Bike Path is planned to extend through Beard Brook Park. Constraints to pathway development include existing development adjacent to the river, limited crossing locations, and potential environmental and flooding issues.

PUBLIC OUTREACH

On May 22, 2003, the City of Modesto convened the first of a series of planned workshops to receive community input for its Non-Motorized Transportation Master Plan Update. Fifteen participants attended the meeting. The meeting was facilitated by Bob Ford, Project Coordinator with the Modesto Parks, Recreation and Neighborhoods Department, and a consulting team consisting of representatives from Alta Planning + Design, Inc. (Alta) and Moore Iacofano Goltsman, Inc. (MIG).

Following an introductory slide show describing the project, the meeting was opened to a guided discussion focusing on planning goals, non-motorized transportation elements that are currently working well and those that are performing poorly, and proposed improvements to the City's non-motorized transportation network and infrastructure. It was emphasized that the scope of the planning be inclusive of multiple modes of non-motorized transit, including pedestrian, bicycle, inline skating, wheelchair and general disability access.

PARTICIPANT DISCUSSION

Comments provided by participants both orally as well as written on comment cards are summarized below.

Goals of the Plan

Participants were asked to describe what their goals were for the Non-Motorized Transportation Master Plan. The following goals were recorded:

- Enhance safety.
- Enhance enforcement and awareness.
- Promote mutual respect between motorized and non-motorized users.
- Improve connectivity of non-motorized routes, both within Modesto and inter-city.
- Establish non-motorized modes as viable transportation/commuting modes.
- Create bike and pedestrian-friendly design for ALL roadways, new and existing.
- Provide adequate improvements.
- Coordinate with regional bike plan.
- Coordinate and cooperate with other planning efforts.
- Integrate non-motorized transportation elements into the City's General Plan.

What's Working?

Participants were asked to describe what aspects of the existing Non-Motorized Transportation network in Modesto are working well. The following comments were recorded:

- Curb ramps
- Good surface condition
- Good maintenance, especially re-painted bike lanes
- Right-turn pockets—Great design standard
- Good citywide infrastructure!
- Great community events, e.g. Bike-to-Work Day
- Good downtown bike parking

What's Not Working?

Participants were then asked to describe what aspects of the existing Non-Motorized Transportation network in Modesto are not working well. The following comments were recorded:

- Lack of coordination and plan implementation—available funds are not being used.
- Lack of bike actuated signals.
- Policy constraints for bikes, especially on arterials—General Plan issue.
- Lack of lane width for cyclists—shoulder space too narrow.
- Lack of safe connections on paths and major routes.
- Inadequate pathway lighting.
- Speeding motorists and an auto-dominated culture.
- Poor safety on major corridors.
- Dangerous linkage points of existing paths, e.g. Benzinger at Scenic.

What Should Be Done?

Finally, participants were asked to describe what aspects of the existing Non-Motorized Transportation network in Modesto are working well. The following comments were recorded:

- Conduct an education campaign.
- Expand access to: 1) parks, 2) schools, 3) downtown/errand-destinations.
- Utilize public utility easements for new trails.
- Capitalize on railroad corridors.
- Develop additional routes and paths, both commuter-oriented and recreational.
- Improve safety at major linkages and intersections.
- Focus on funding strategies for priority projects.
- Recognize and attempt to balance diverse needs.

- Identify pedestrian and bike neighborhood connectors.
- Support citizen advocacy for plan implementation.
- Counterbalance developers' political influence.
- Provide pedestrian-friendly signalization, especially timing.
- Address disability amenities and infrastructure: additional curb cuts and wheelchair access, ensuring wheelchair inclusivity in planning.
- Ensure adequate street lighting.
- Seek funding through Safe Routes to Schools.
- Install better directional signage, especially at linkages.
- Connect southwest, which is currently blocked by Highway 99 and railroad tracks, with greater community.
- Connect Tuolumne River Regional Park to community.
- Connect Salida to Modesto.
- Apply better trail maintenance.

5. BICYCLE IMPROVEMENTS

The recommended bicycle improvements for the City of Modesto consist of a bikeway network and bicycle support facilities. The recommended bikeway network, which includes Class I bike paths, Class II bike lanes, and Class III bike routes, connects residential neighborhoods in Modesto with schools, parks, community centers, libraries, commercial centers, and other destinations. The recommended bicycle support facilities and programs include parking facilities, sidewalk management practices, and signage programs.

RECOMMENDED BIKEWAY NETWORK

A bikeway network is a system of bikeways that, for a variety of reasons, including safety and convenience, provides a superior level of service for bicyclists and/or is targeted for improvements by the City due to existing deficiencies. It is important to recognize that, by law, bicyclists are allowed on all streets and roads regardless of whether they are a part of the bikeway network. **The bikeway network is a tool that allows the City to plan for the future and to focus and prioritize implementation efforts where they will provide the greatest benefit to bicyclists and the community at large.**

The established methodology for selecting a bikeway network for any community begins with the primary effort to receive input from the local bicycling community and local staff familiar with the best routes and existing constraints and opportunities. Input can be received through a variety of means, but it is typically received through the public workshop format. Surveys of bicyclists and community members can also serve a valuable role in this process as well.

The following criteria were used to develop the bicycle network:

- Existing Bicycling Patterns - Public workshop participants identified preferred bicycling patterns.
- Connectivity – System connectivity, providing access from one bikeway corridor to the next, is important.
- Traffic volumes and travel speeds - Higher volume and higher speed roads are typically acceptable to more experienced cyclists; lower volume and lower speed roads are typically preferred by the less experienced cyclists.
- Amount of side friction (driveways, side streets) - Bicyclists prefer roads that minimize potential side street conflicts.
- Curb-to-curb width - Bicyclists prefer roads with wider riding areas.
- Pavement condition - Bicyclists prefer smooth roadways.

- Access from residential areas - Corridors that provide access from residential areas are preferred.
- Number of destinations served - Corridors that maximize the number of destinations served, schools, parks, employment centers, and multi-modal terminals such as the Amtrak Station, are preferred.
- Integration into the regional system - Connectivity to the regional system is preferred.
- Adjacent land use - The compatibility with adjacent land uses is important.
- On-street parking - Bicyclists prefer roads that minimize potential conflicts with parked vehicles.
- Incident data and safety concerns - Corridors that maximize safety are preferred.
- Existing opportunities such as planned roadway improvements - Integrating recommended bike facility improvements into planned roadway improvements is preferred.
- Routes with intersection protection and minimal delay - Bicyclists prefer corridors that minimize stopping requirements for the bicyclists while maximizing stopping requirements for conflicting vehicle traffic.

The recommended Modesto bikeway network shown in **Figure 5-1** and **Figures 5-2** focuses on connecting and extending existing segments of the Virginia, Hetch-Hetchy and Tuolumne River Trails, addressing routes used by bicyclists, and focusing on specific opportunities and constraints. The grid arterial/collector street pattern offers several distinct through corridors which connects residential areas with significant destinations such as Downtown Modesto, the Tuolumne River Regional Park, Dry Creek Regional Park, Modesto Junior College's East and West Campuses, the new Amtrak station near Santa Fe Avenue, schools, and parks. Class III bike routes are proposed on a variety of local routes and regional connecting routes. Bikeway improvements will include intersection enhancement (such as bike lane pockets, loop detectors, and stenciling where needed), wider curb lanes where possible, and enhanced bikeway and directional signage.

New Class I bike paths are proposed to extend the existing Tuolumne River Regional Park Trail, Dry Creek Regional Park Trail, and the Hetch-Hetchy Trail. A new Class I path is proposed along the Union Pacific Railroad line, parallel to 9th Street through downtown. The planned Virginia Corridor Trail along the former Tidewater Southern railroad right-of-way is included as well as a Class I facilities along Briggsmore Avenue, and the Pelandale Extension.

New Class II bike lanes are recommended for Paradise Road, South 9th Street, Crows Landing Road and Needham Avenue Streets to provide access to planned bike routes in Downtown Modesto. Class II bike lanes would also be extended and installed on Scenic Road, Dale Road, Oakdale Road, Carpenter Road and Roselle Avenue. Additional short Class II segments are recommended as necessary.

New Class III bike routes are recommended for nearly all Modesto neighborhoods. These routes increase overall connectivity as well and provide direct connections for local destinations like downtown Modesto, schools and parks.

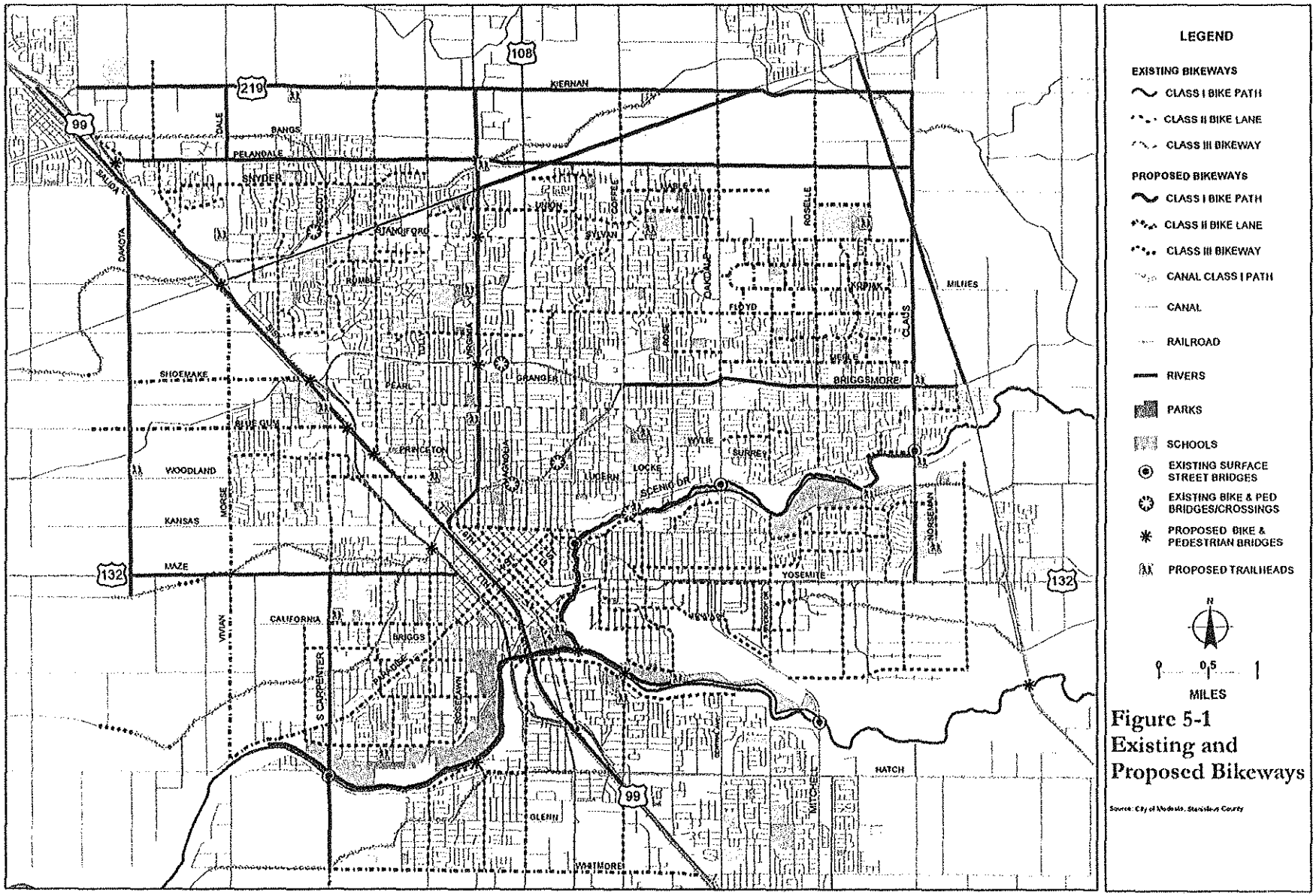


Figure 5-1
Existing and
Proposed Bikeways

Source: City of Modesto, Stanislaus County

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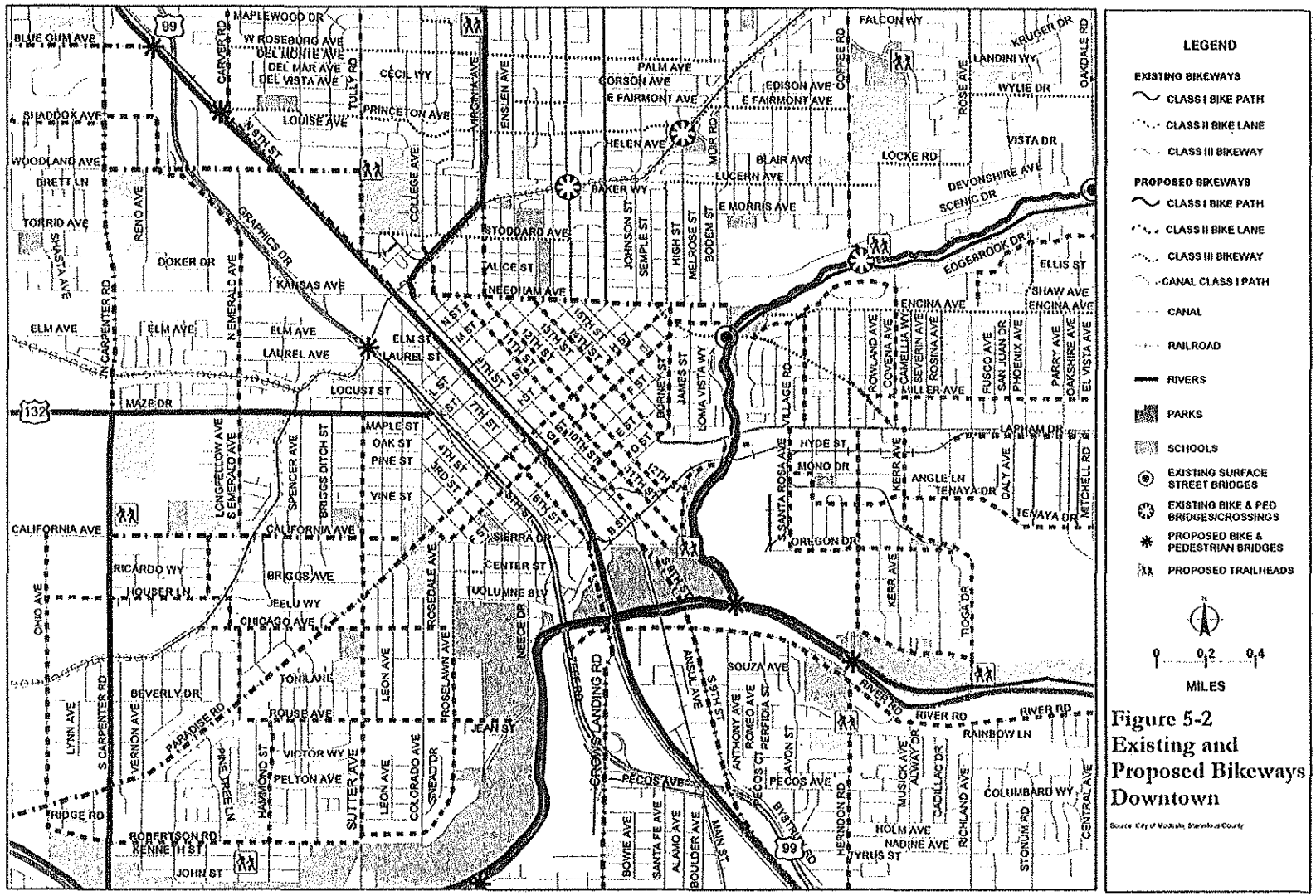
LEGEND
EXISTING BIKEWAYS
CLASS I BIKE PATH
CLASS II BIKE LANE
CLASS III BIKEWAY
PROPOSED BIKEWAYS
CLASS I BIKE PATH
CLASS II BIKE LANE
CLASS III BIKEWAY
CANAL CLASS I PATH
CANAL
RAILROAD
RIVERS
PARKS
SCHOOLS
EXISTING SURFACE STREET BRIDGES
EXISTING BIKE & PED BRIDGES/CROSSINGS
PROPOSED BIKE & PEDESTRIAN BRIDGES
PROPOSED TRAILHEADS
0 0.2 0.4
MILES
MAPLEWOOD DR
W ROSEBURG AVE
DEL MONTE AVE
DEL MAR AVE
DEL VISTA AVE
CÉCIL WY
PRINCETON AVE
LOUISE AVE
BLUE GUM AVE
SHADDOX AVE
WOODLAND AVE
BRETT LN
TORRID AVE
DOKER DR
KANSAS AVE
GRAPHICS DR
ELM AVE
LAUREL AVE
LOCUST ST
MAPLE ST
OAK ST
PINE ST
VINE ST
CALIFORNIA AVE
SIERRA DR
CENTER ST
TUOLUMNE BLV
RICARDO WY
BRIGGS AVE
JEELU WY
CHICAGO AVE
TONI LN
BEVERLY DR
ROUSE AVE
PARADISE RD
VICTOR WY
PELTON AVE
RIDGE RD
ROBERTSON RD
KENNETH ST
JOHN ST
JEAN ST
STODDARD AVE
ALICE ST
NEEDHAM AVE
PALM AVE
CORSON AVE
E FAIRMONT AVE
HELEN AVE
BAKER WY
LUCERN AVE
E MORRIS AVE
BLAIR AVE
FALCON WY
LANDINI WY
IVYLIS DR
LOCKE RD
VISTA DR
DEVONSHIRE AVE
SCENIC DR
EDGEBROOK DR
ELLIS ST
ENCINA AVE
SHAW AVE
HYDE ST
MONO DR
ANGLE LN
TENAYA DR
LAPHAM DR
OREGON DR
SOUZA AVE
RIVER RD
RAINBOW LN
PECOS AVE
COLUMBARD WY
HOLM AVE
NADINE AVE
TYRUS ST
CROWS LANDING RD
Figure 5-2
Existing and Proposed Bikeways Downtown
Source: City of Modesto, Stanislaus County

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RECOMMENDED BICYCLE PROJECTS

BICYCLE PARKING PROGRAM

Bicycle parking includes standard bike racks, covered lockers, and corrals. Bicycle parking should be installed on public property, or available to private entities on an at-cost basis. Bike racks are provided at many local schools and various other locations in Modesto, but overall the lack of safe and secure bicycle parking is a concern of bicyclists who may wish to ride to work or to shop. Theft and vandalism of bicycles, especially now that bicycles are often worth in excess of $250 to $2,000, is a major impediment to bicycle riding. Showers and lockers are essential end-of-trip facilities, providing comfort and greater security for commuters, and encourage more people to bicycle to work. A systematic program to improve the quality and increase the quantity of bicycle parking facilities should be implemented in Modesto.

RECOMMENDATIONS

Increase Public Bicycle Parking Facilities

Bike racks and lockers should be provided at public destinations, including park-and-ride lots, major bus stops, community centers, parks, and schools. All bicycle parking should be in a safe, secure, covered area (if possible). Commuter locations should provide secure indoor parking, covered bicycle corrals, or Class I bicycle lockers. Bicycle parking on sidewalks in commercial areas should be provided according to specific design criteria, reviewed by merchants and the public, and installed as demand warrants. As a general rule, 'U' type racks bolted into the sidewalk are preferred on downtown sidewalks, to be located intermittently and/or at specific bicycle destinations (such as bike shops). A program to fund and install these facilities could begin as a joint-agency project between the City of Modesto and the Stanislaus County Transportation Commission.

Adopt a Bicycle Parking Ordinance

Consider adoption of a bicycle parking ordinance, which will require that bicycle parking facilities be included in all new commercial and office development projects in the Modesto. For example, all new commercial development or redevelopment in excess of 40,000 gross leasable square feet should be required to provide one secure indoor bicycle parking space (i.e. in a parking garage or basement) per 10 employees.

The City currently has no requirements for bicycle parking accommodations. This ordinance would be a complement to the public parking program, which would add parking facilities to existing commercial and office locations. A model bicycle parking zoning ordinance is provided in the Appendix to this Plan.

Encourage Provision of Shower and Locker Facilities

Encouraging employers to provide shower and locker facilities for employees should be a component of all commute and traffic demand management programs as those facilities provide for current commuters and may encourage more commuters to ride their bicycles. Several cities have requirements for shower and locker facilities in new and reconstructed developments. For example, the model planning ordinance for the City of San Francisco, provided in the Appendix, requires that new industrial and commercial developments over 10,000 gross square feet in floor area must provide one shower and two clothes lockers.

Construct Bicycle Corrals at Local Schools

A special program to construct bicycle corrals where needed at Modesto area schools should be started. A corral is a fenced-in area at a major destination, such as a school or an event, secured either through lock or by an attendant, where bicycles can be securely parked. These simple enclosed facilities are locked from the beginning to the end of school, and address the theft and vandalism concerns of students.

Provide Valet Bike Parking at Public Events

A new program to provide closed-in secure bicycle corrals at all major special events, such as summer concerts in the park, should be instituted to encourage residents and visitors to bicycle rather than attempt to drive. The appropriate agency or organization should sponsor this corral and seek volunteers (such as from the Stanislaus County Bicycle Club) to staff the corral during the events.

Improve Parking at the Amtrak Station and Other Transit Facilities

A bicycle locker program should be implemented at the Modesto Amtrak Station, downtown transit center, and for all new bike locker installations in the City. Administration procedures should include a program that rents out lockers to an individual for a given period of time for a determined fee. This method of locker administration has been successful in improving safety and preventing people from using the lockers for a purpose other than their intended use.

SIDEWALK MANAGEMENT

The use of sidewalks as bicycle facilities is not encouraged by Caltrans, even as a Class III bike route. There are exceptions to this rule. The California Vehicle Code states: "Local authorities may adopt rules and regulations by ordinance or resolution regarding the...operation of bicycles...on the public sidewalks." (CA VC 21100, Subdiv. H). Caltrans adds in Chapter 1000: "In residential areas, sidewalk riding by young children too inexperienced to ride in the street is common. But it is inappropriate to sign these facilities as bikeways. Bicyclists should not be encouraged (through signing) to ride facilities that are not designed to accommodate bicycle travel." The key problems to be addressed through design and operational improvements are bicyclists riding at high speeds (over 7-8 mph) and in an unsafe manner (particularly riding in the opposite direction of adjacent vehicle traffic) on sidewalks, rather than younger bicyclists using the sidewalks to reach school. The following actions are recommended to address this problem.

RECOMMENDATIONS

Allow Children to Bicycle on Neighborhood Sidewalks

Adopt Caltrans recommendations for sidewalk management and specifically allow school children and adults accompanying them to ride bicycles on sidewalks. Consider the use of stencils and signs (supported by a City-adopted resolution) to prohibit bicycle riding on sidewalks in areas where shop or car doors open directly onto sidewalks (sidewalks located within shopping centers, etc.). Also, consider the use of stencils and signs (supported by a City-adopted resolution) to prohibit bicycle riding on sidewalks in areas where there are numerous driveways. Modification of the existing code on bicycle riding on sidewalks should be made to accommodate children riding bicycles with wheels that are more than 20 inches in diameter. Currently, according to municipal code Section 4-3.22

bicycles with wheels larger than this diameter size are strictly prohibited on sidewalks. The code may be better suited to allow bicycling on the sidewalk paths that exist in the City as well as those that will be built in the future.

Sign and Stencil Potential Conflict Areas as "No Bicycling"

Signing and stenciling should be used at certain locations as appropriate to prohibit or permit bicycle riding on sidewalks, prohibit bicyclists riding in the opposite direction of vehicle traffic, or require bicyclists to walk their bicycle:

a. In high pedestrian activity areas where there has been a documented bicycle-pedestrian collision pattern (and at the City Traffic Engineer's discretion), the City should install stenciling or signing (such as "No Bicycling on Sidewalk"). This signing and stenciling would primarily be recommended for commercial areas where the buildings are located directly on the public sidewalk (no setbacks) and people exiting the building have no opportunity to see bicyclists.

b. An option to completely prohibit bicyclists over 12 years old from using sidewalks is to post signs reading "Bicyclists Yield to Pedestrians" with a symbol of a pedestrian on a sidewalk and a bicyclist walking their bicycle next to that figure. This sign may be posted where there have been conflicts in the past.

c. At locations where there are numerous driveways and documented incidents of bicyclists riding in the opposite direction of adjacent vehicle traffic, the city should install signing and stenciling (such as "No Bicycles, Wrong Way" or "No Bicycling this Direction").

Shared Bicycle and Pedestrian Sidewalk or Path Facilities

In areas where there are right-of-way limitations that limit the ability to provide on-street bicycle facilities, or areas where traffic volumes and speeds may warrant an off-street facility, and it may be desirable to provide for combined off-street bicycle and pedestrian facilities. In general, these facilities should be designed to Class I bikeway standards set forth by Caltrans Chapter 1000. For specific locations, it may be desirable to allow bicycle travel on non-Class I facilities (e.g. sidewalks) for short distances. For any facilities expected to be used by both pedestrians and bicyclists should be signed and stenciled to note the multiple use, post a bicycle speed limit, and consider delineating separate pedestrian and bicycle zones to separate user traffic. This recommendation should not be viewed as an overall policy to encourage bicycling on sidewalks in lieu of providing Class II or III on-street facilities, but is simply a tool that the city can use to provide off-street facilities under certain circumstances.

SIGNING AND STRIPING

All bikeway signing on public roadways in Modesto should conform to the signing identified in the Caltrans Traffic Manual and/or the Manual on Uniform Traffic Control Devices (MUTCD). These documents give specific information on the type and location of signing for bicycle facilities in the Modesto bikeway network.

RECOMMENDATIONS

Designated Bikeway Signs

The installation of bikeway signs on all designated bicycle facilities is important to heighten motorist awareness and help cyclists find their way. Installing signage is something that can be implemented easily compared to major striping revisions or bike path construction and should be implemented as a priority. An example of where this applies is on Existing Class III Bike Routes where installation of several signs will complete a designated route.

Wayfinding Signage

Wayfinding signage can enhance a bikeway network by providing directional assistance to bicycle facilities and significant local and regional destinations. It is recommended that the City of Modesto design bikeway network directional signage for use on the primary network. This signage program would work as a map on the street, identifying designated routes connecting to key destinations in Modesto (and beyond). The signage may also include mileage information.

PROTECT BICYCLE FACILITIES FROM REMOVAL

RECOMMENDATON: Implement a policy that existing bikeway facilities will not be removed. For example, Class II bike lane facilities will not be removed at a future date to increase motor vehicle capacity without a thorough study analyzing the alternatives.

MULTI-MODAL CONNECTIONS

RECOMMENDATION: Modesto Area Express should continue to equip all transit buses operating within Modesto with bicycle racks. Bicycle travel to transit stops and stations should be enhanced in order to make the transfer between bicycle and transit travel as convenient as possible. Bicycle parking facilities should be considered for implementation at key local transit bus stops. Parking facilities already exist at the downtown transit center and Amtrak station. These facilities should be enhanced with the addition of fully enclosed bicycle lockers.

BICYCLE DETECTOR LOOPS

RECOMMENDATON: At appropriate signalized intersections, install and mark traffic detection loops that are responsive to bicycles. Signal detectors and stencils identifying where bicyclists place their bicycles to trigger signals should be reviewed and approved by the City staff prior to implementation. Specific implementation criteria may include sensitivity, impact of overlay projects, cost, and need. Possible alternatives to signal detectors may include the use of push button signal activators that are well-marked and convenient for bicyclists to use. All signal detectors should be checked regularly to ensure that they are functioning correctly.

CONSTRUCTION ACTIVITIES

RECOMMENDATON: Consider impacts on bicycles while performing construction, maintenance and repair work on roadways and trails.

- Provide suitable construction warning signs for any activities that involve work in a designated bikeway.

- Where necessary, provide detour routes around areas undergoing construction.

Detailed guidelines are provided in the Appendix for accommodating bicycles in construction zones.

RURAL ROADS IMPROVEMENT PROGRAM

Bicycle use on the roads outside of the developed portions of Modesto consists of both recreational and commuting use and will grow as population and urban development increase. Rural roads typically are located outside developed areas and have no (or limited) curbs, gutters, or sidewalks. There are also roadways within the developed areas that may be considered rural roads as well. People cite a variety of problems on rural roads throughout the area, which are packaged into one effective set of program recommendations here. This rural roads improvement program would provide a mechanism to address specific problems at locations along Modesto's rural roads, which could be addressed through a combination of any of the following ways:

1. Advisory and warning signs
2. Shoulder widening or new shoulders
3. Travel lane re-striping where excess width available
4. New or improved turnouts
5. Enhanced roadway surface maintenance

Note that bike lanes could be included in this list, but are not commonly used in rural areas due to the large number of required signs and stencils. The City should work with community members, Stanislaus County, and neighboring city staffs to select improvements each year and develop a cost estimate for the appropriate improvements. Some of roadways that would qualify for such improvements may include roadways that extend north from Modesto City Limits to the Stanislaus River, and east of Modesto City Limits.

These improvements should be implemented if deemed feasible, funded and approved by the City of Modesto City Council, Stanislaus County, and the Stanislaus Council of Governments.

OVERVIEW OF PRIORITY PROJECTS

The recommended Modesto bikeway network shown in Figure 5-1 focuses on providing north-south and east-west on-street bikeways and off street paths that facilitate cross-town trips, provide access to major destinations, and provide for regional connectivity.

The section that follows identifies the recommended Priority Projects and provides project sheets that describe the specific elements of each project and some of the primary design and implementation issues. A complete street-by-street listing of the proposed new bikeway facilities with cost estimates is provided in **Chapter 8, Implementation**.

The following Priority Project sheets are broken down by Class I Bike Paths, Class II Bike Lanes, and Class III Bike Routes, and are listed in alphabetical order—no ranking or order of importance within this priority list is implied. The Modesto City Council is free to implement projects in whatever order is most appropriate, as funding opportunities arise, new development occurs, or right-of-way is acquired. This project list should be viewed as flexible, and may change over time as new opportunities arise.

Depending upon ultimate configuration and timing of development, installation of some Priority Projects may require roadway widening, narrowing or elimination of travel lanes, narrowing or elimination of parking lanes, or acquisition of additional right of way. Additional feasibility or traffic analysis may be required on some project segments prior to implementation.

LIST OF PRIORITY PROJECTS

Class I Bike Paths

- Briggsmore Class I
- Carpenter Road Class I (south of Maze)
- Dry Creek Extension to Tuolumne River Regional Park Class I
- Hetch Hetchy Class I
- Kiernan/Claribel Class I
- Maze Boulevard Class I
- MJC East West Campus Off-Street Connector Class I
- Modesto and Turlock Irrigation District Lateral Canals Class I
- Pelandale Expressway Class I
- Tuolumne River Trail Class I
- Veneman Class I Connector
- Virginia Corridor Class I

Class II Bike Lanes

- Carpenter Road Class II (north of Maze)
- Claus Road Class II
- Coffee to Dry Creek Connector Class II
- Crows Landing Road Class II
- Floyd Avenue Class II and III
- Merle Avenue to Grogan Park Class II and III

Class II, continued

- MJC East West Campus On-Street Connector Class II
- Needham Class II
- Oakdale Road Class II
- Paradise Road Class II
- Roselle/Lakewood Class II
- Scenic Class II
- Sylvan Class II Extension
- Whitmore Avenue Class II
- 12th Street/Virginia Connector Class II/III

Class III Bike Routes

- Conant Avenue/Marsala Way Class III
- Crater Avenue Class III Connector
- Downtown G and H Class III
- Downtown 10th and 11th Class III
- E. Union Avenue/Sylvan Meadows Class III
- Emerald Avenue/Panama Drive/Harris Avenue Class III
- Floyd Avenue Class III
- Miller Avenue Class III
- Mariposa Road Class III
- MLK/Sutter Class III
- Orangeburg/Amtrak Class III
- Riverside to Sutton Park Class III
- Rosemore Avenue Class III
- Santa Cruz Avenue/Covena Avenue Class III
- S. Morton Boulevard/Mono Drive Class III
- Sunrise Dragoo Park Class III
- Snyder Class III
- 14th Street Class II Extension

PRIORITY CLASS I BIKE PATH PROJECTS

PRIORITY PROJECT

BRIGGSMORE AVENUE TRAIL CLASS I

The Briggsmore Avenue Trail would be a major addition to Modesto's bicycle and pedestrian commuter network, including a connection to the Memorial Medical Center. The trail would follow Briggsmore Avenue and the Modesto Irrigation District Lateral Canal No. 3, providing a major east-west route connecting with two north-south bike lanes, the Virginia Corridor Trail, and the proposed Claus Road Trail. The Briggsmore Avenue Trail would stretch from the intersection of Briggsmore Avenue and Coffee Road at the western terminus and extend east to the city limits, providing access to the Amtrak Station.

Wayfinding signage should be installed along the path, directing bicyclists to other bicycle facilities and significant destinations like the Amtrak Station.

The Briggsmore Avenue Class I facility would run alongside the M.I.D. Lateral Canal No. 3 from Coffee Road east to the city limits.

PRIORITY PROJECT

CARPENTER ROAD CLASS I

The Carpenter Road Class I path would provide a north-south connection along Carpenter Road between Maze and Whitmore. This facility would connect to the proposed bike path along Maze, to the proposed Tuolumne River bike path, to the proposed irrigation canal path at Whitmore, and to the proposed Class II bike lanes along Whitmore.

Wayfinding signage should be installed along the Carpenter Road Class I path, directing bicyclists to other bicycle facilities and other significant destinations.

PRIORITY PROJECT

CLAUS ROAD CLASS I

The Claus Road Class I path would provide a north-south connection along the eastern edge of Modesto. The path would connect Kiernan Avenue in the north with the Class I facility at East Briggsmore Avenue. A Class I bike path is also proposed for Claus road south of E. Briggsmore and to E. Orange. The Claus road Class I path will enable bicyclists to connect to Grogan Park as well as the Irrigation Canal Class I paths and the Amtrak Station by way of E. Briggsmore. The Claus Class I path is also proposed between Creekwood Drive and Yosemite Boulevard at the southeastern part of the city.

Wayfinding signage should be installed along the Claus Road Class I path, directing bicyclists to other bicycle facilities and other significant destinations.

PRIORITY PROJECT

DRY CREEK EXTENSION TO TUOLUMNE RIVER REGIONAL PARK CLASS I

The Dry Creek Class I trail extension will connect Dry Creek Regional Park and Kewin Park with Downtown Modesto and the Tuolumne River Regional Park. The existing Dry Creek Trail terminates at Kewin Park on the trail's western end. Extending the trail further west will connect Downtown with the recreation areas in the east, along the Tuolumne River. The extension of the Dry Creek Trail will require crossing the river, possibly at La Loma, as well as crossing Yosemite Boulevard. Additional feasibility study may be required to identify the best possible alignment for the trail extension, as well as any segments which may need to be Class II or III.

Wayfinding signage should be installed along the Dry Creek Extension, directing bicyclists to other bicycle facilities, as well as significant destinations like the Tuolumne River Regional Park.

PRIORITY PROJECT

HETCH-HETCHY BICYCLE TRAIL EXTENSION CLASS I

The existing Hetch-Hetchy Class I Bicycle trail travels for approximately 3 miles within the Hetch-Hetchy utility corridor from Sisk Road to Semallon Drive, where it intersects with the proposed Virginia Corridor Trail right-of-way. The next phase of the Hetch-Hetchy Trail would extend another mile northeast, across McHenry Avenue to Claratina Avenue. The extension to Claratina Avenue has been estimated to cost about $500,000. The Hetch-Hetchy Trail could then be extended beyond the current Modesto City Limits to the Modesto "Sphere of Influence" Limits at Claribel Road, just east of Oakdale Road. The Hetch-Hetchy Trail currently connects with existing and proposed bicycle network facilities on Standiford Road, Tully Road and Coffee Road.

Wayfinding signage should be installed along the trail, directing bicyclists to other bicycle facilities and significant destinations.

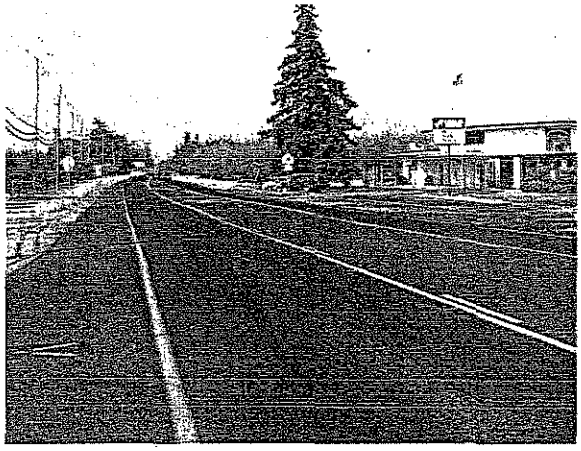
Class I facilities provide safe and enjoyable access for a variety of users that may use the path for both recreation and commute purposes

PRIORITY PROJECT

KIERNAN AVENUE/CLARIBEL ROAD CLASS I

The Kiernan Avenue/Claribel Road Class I facility would form a northern boundary for the City of Modesto's bicycle network. The path would extend from Highway 99 to the west and Claus Road to the east. This project would also connect with proposed facilities where Kiernan Avenue/Claribel Road intersects with the Virginia Corridor Trail, the Hetch-Hetchy Trail, Tully Road, Coffee Road, and Oakdale Road. Because Kiernan Avenue/Claribel Road form State Highway 219, negotiations with Caltrans regarding use of the right-of-way would be necessary.

Wayfinding signage should be installed along the path, directing bicyclists to other bicycle facilities and significant destinations.



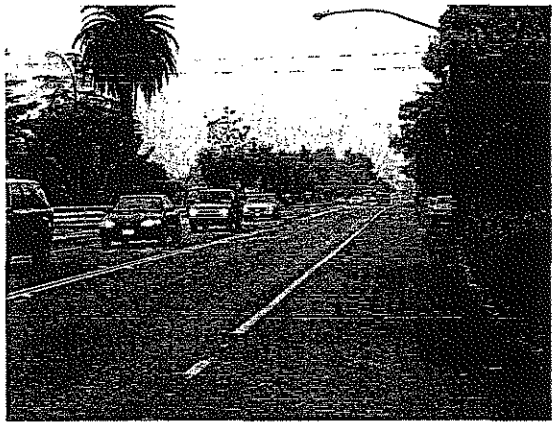
A Class I Trail along Kiernan Avenue would form the northern boundary of the Modesto Bicycle Network, while providing trail that would extend almost the entire east-west length of the City

PRIORITY PROJECT

MAZE BOULEVARD CLASS I

The Maze Boulevard Class I path would run from 6th Street in the east to Dakota Avenue in the west. The path would provide connections from Downtown Modesto to the Rosemore Class III route which feeds into Modesto Junior College West. The Class I path would be located on the north side of Maze Boulevard.

Wayfinding signage should be installed along the Maze Boulevard Class I path, directing bicyclists to other bicycle facilities as well as significant destinations like Downtown Modesto.



Maze Boulevard has a wide existing shoulder that can accommodate the installation of bicycle lanes on most segments of the roadway. This facility will provide a connection to Modesto's westernmost areas

PRIORITY PROJECT

MJC EAST-WEST CAMPUS OFF-STREET CONNECTOR CLASS I

The East and West Modesto Junior College (MJC) Campuses are separated by major roads, SR-99, and the active Union Pacific Railroad line. Classes may be taken at both campuses, and many students and instructors currently drive between campuses, which has led to roadway congestion and parking problems. A designated bicycle facility between the campuses will enhance the safety of bicyclists going between campuses and may encourage bicycle commuter trips instead of auto trips, thus reducing the demand on local roads and parking.

An Off-Street campus connector could be developed utilizing the Union Pacific Railroad right-of-way for a Class I rail-with-trail facility. A campus connection could be made using the rail-with-trail facility by facilitating access from the West Campus to the trail via Brink Avenue. The Class I rail-with-trail would extend along the western portion of the Union Pacific right-of-way from Brink Avenue south to Coldwell Avenue. At Coldwell Avenue, the MJC connector route would transition to on-street bikeways to the East Campus.

Wayfinding signage should be installed along the path, directing bicyclists to other bicycle facilities and destinations like MJC East and West.

The Union Pacific Railroad right-of-way would provide for an excellent Class I facility that would run along 9th Avenue and provide a safe and convenient connection between the two MJC campuses

PRIORITY PROJECT

MODESTO AND TURLOCK IRRIGATION DISTRICT LATERAL CANALS CLASS I

Modesto and Turlock Irrigation District canals traverse Modesto providing potential for Class I paths. The lateral canals are flanked by existing service roads that could provide essential off-street connections running east-west across Modesto. The service roads may be enhanced for multiple uses through paving, or may remain in their existing unpaved state. In order to develop Class I paths along the irrigation canals, the Modesto and Turlock Irrigation Districts must enter into agreements with the City of Modesto permitting access along the service roads. The City may pursue an easement with the Irrigation Districts to ensure the legal use of their canal service roads by the public. The Modesto and Turlock Irrigation District Canals that have been identified as potential Class I paths are:

- Modesto Irrigation District Lateral Canal No. 1
- Modesto Irrigation District Lateral Canal No. 2
- Modesto Irrigation District Lateral Canal No. 3
- Modesto Irrigation District Lateral Canal No. 4
- Modesto Irrigation District Lateral Canal No. 5
- Modesto Irrigation District Lateral Canal No. 6/Modesto Main Canal
- Modesto Irrigation District Lateral Canal No. 7
- Turlock Irrigation District Lateral Canal No. 1

Wayfinding signage should be installed along the canals, directing bicyclists to other bicycle facilities as well as significant destinations.

PRIORITY PROJECT

PELANDALE AVENUE EXPRESSWAY CLASS I

The Pelandale Avenue Expressway Class I facility would provide a bicycle path along the northern Modesto city limits and would connect to the proposed Hetch-Hetchy Aqueduct bicycle trail extension. The Pelandale Avenue Expressway path would also intersect with existing bicycle facilities on Tully Road, Coffee Road and Beyer Park Drive. The Path would span from SR-99 in the west, following the development of Pelandale Avenue Expressway, to eastern Modesto.

Wayfinding signage should be installed along the Pelandale Avenue Expressway Class I path, directing bicyclists to other bicycle facilities and significant destinations.

Segments of this project are recommended in the Stanislaus County Regional Bicycle Action Plan.

PRIORITY PROJECT

TUOLUMNE RIVER TRAIL SYSTEM CLASS I

Tuolumne River Regional Park is one of Modesto's most valuable recreational assets. The Tuolumne River Regional Park includes several developed park sites along the Tuolumne River in southern Modesto. The City developed a Master Plan to provide for connections and additional recreational development within the Park. As part of the Master Plan, a Class I trail system was added. The setting is scenic and removed from traffic, inviting a diverse range of users from all ages and skill levels. An expansion of the facility may even benefit commuters as the trail would stretch from east to west almost the entire width of southern Modesto, connecting the chain of parks along the Tuolumne River. The existing Class I Trail runs within the Tuolumne River Regional Park from Mitchell Road to Tioga Drive. This project proposes to extend the trail westward along the entire north bank of the Tuolumne River within Modesto, from Mitchell Road to Carpenter Road.

Wayfinding signage should be installed along the trail, directing bicyclists and other users to other bicycle and trail facilities as well as significant destinations such as Downtown Modesto.

PRIORITY PROJECT

VENEMAN CLASS I CONNECTOR

The Veneman Class I Connector links Veneman Avenue with the Class II facility along Standiford Avenue in northwest Modesto. This Class I connector also provides a connection with the Lateral Canal No. 7 Class I facility, enabling users of the canal path to transition onto city streets at this point.

Wayfinding signage should be installed along the Veneman Class I Connector, directing bicyclists to other bicycle facilities as well as significant destinations like the Vintage Faire Mall.

PRIORITY PROJECT

VIRGINIA CORRIDOR TRAIL CLASS I

This project would provide for a major 4-mile north-south Class I trail through the heart of Modesto along the former Tidewater Southern rail corridor. The project is to be implemented in seven phases. Phases I-IV include intersection improvements and trail installation from Needham Street to Granger Avenue, and are scheduled to be completed in 2005. From Granger Avenue, the trail will extend north along the former railroad right-of-way to just south of Bangs Avenue in north Modesto. Providing a connection between central and north Modesto to the downtown district and the Tuolumne River and Dry Creek trail system, the Virginia Corridor Trail has the potential of becoming a major commute route for bicyclists and pedestrians. Providing this alternative route may reduce vehicle traffic on the north-south roadways such as McHenry Avenue. The project includes the construction of pedestrian bridges over three major streets: Briggsmore, Standiford, and Pelandale Avenues. The Virginia Corridor Trail proposal is a product of an existing City of Modesto Master Plan.

Wayfinding signage should be installed along the Virginia Corridor Trail, directing bicyclists and other users to other bicycle and trail facilities as well as significant destinations.

The Virginia Corridor, pictured here, where it intersects with Kiernan Avenue will provide a safe and direct trail for commuters and recreational users of all ages

PRIORITY CLASS II BIKE LANE PROJECTS

PRIORITY PROJECT

CARPENTER ROAD CLASS II

Currently Modesto has only one bicycle route west of SR-99. Carpenter Road is a major north-south arterial in the western part of the City, connecting Tuolumne River Regional Park with the West Campus of Modesto Junior College. The Carpenter Road Class II would provide a connection from Maze Boulevard north to the MJC West Campus at Blue Gum (overlapping with a segment of the MJC Campus Connector On-Street Route).

Wayfinding signage should be installed directing bicyclists to the two MJC campuses, as well as other bicycle facilities and significant destinations. "Bike Lane" signage and pavement stencils should be installed at the beginning and end of every block.

There is a short segment of Carpenter Road that features an existing bicycle lane just south of the MJC West campus. The bicycle lane would be extended all the way to Paradise Road.

PRIORITY PROJECT

COFFEE ROAD TO DRY CREEK TRAIL CONNECTOR CLASS II

Currently, the existing bicycle lanes on Coffee Road terminate north of Scenic Drive. On the south side of Scenic Drive there is a vacant lot with a trail entry that connects to the bicycle and pedestrian trail that in Dry Creek Regional Park. The City has plans for a trailhead parking lot in this location. The Coffee Road to Dry Creek Trail Connector would provide a clear, safe and efficient connection from the bike lanes on Coffee Road to the creek crossing. This project would require extending the Class II lanes on Coffee Road to the intersection with Scenic Drive, installing a bike lane pocket between the right and left turn lanes, installing wayfinding signage to direct bicyclists and pedestrians where to cross Scenic Drive from Coffee Road, installing new loop-detector signal actuators in the pavement. There are two existing push-button crossing signal devices (one is shown in lower left corner of photo below), but these are poorly marked and should placed in a more convenient location.

This connector project should also include an effort by the City to work with landowner of the vacant lot to enhance the trail entry by installing signage and landscaping appropriate for a designated trailhead. If right-of-way is available, a small trailhead parking lot should be provided.

Wayfinding signage should be installed along the route, directing cyclists to other bicycle facilities as well as significant destinations. "Bike Lane" signage and stenciling should be installed.

A designated and safe crossing at the intersection of Coffee Road and Scenic Drive is needed. In addition, the vacant lot adjacent to the Dry Creek Trail entry should be designed as a developed as an attractive and formal entry.

PRIORITY PROJECT

CROWS LANDING ROAD CLASS II

The Crows Landing Road Class II Facility project would provide Class II bike lanes on Crows Landing from Whitmore Avenue to SR-99. This project would link to proposed bike lanes on Whitmore, and proposed bike paths along the Tuolumne River and along the Union Pacific Railroad right-of-way.

Wayfinding signage should be installed directing bicyclists other bicycle facilities and significant destinations. "Bike Lane" signage and pavement stencils should be installed at the beginning and end of every block.

PRIORITY PROJECT

FLOYD AVENUE CLASS II AND III

The Floyd Avenue Class II and III route provides an east west connection in the northeastern part of Modesto. The route connects Fine Avenue on the eastern edge of the City with McHenry Avenue (SR 108) at its western terminus. Class II bike lanes are recommended on Floyd Avenue from Fine to Oakdale. From Oakdale to McHenry, a Class III bike route is recommended. The Floyd Avenue Class II/III route provides access to Sylvan Elementary School and Somerset Middle School. Grogan, Ustach and Basin Parks can be access via Floyd Avenue in conjunction with the connecting Class III Merle Avenue to Grogan Park route.

Wayfinding signage should be installed along the route, directing bicyclists to other bicycle facilities and significant destinations, such as the Grogan Park and the Amtrak Station. "Bike Lane" and "Bike Route" signage, as appropriate, should also be installed every quarter-mile and at signalized intersections.

PRIORITY PROJECT

MERLE AVENUE TO GROGAN PARK CLASS II AND III

The Merle Avenue to Grogan Park Class II and III route begins as a bike route along Celeste Way at Rose Avenue. The route travels east to Oakdale Road and continues as a Class II bike lane to Fine Avenue where it shifts orientation to travel north to Grogan Park by way of Kodiak Drive and Litt Road. The Merle Avenue route features an additional branch, along Lincoln Oak Drive to Kodiak Drive and Bear Cub Lane, which connects cyclists to Orchard Park and Ustach and Basin Parks. Access is provided to Orchard Elementary School and Elizabeth Ustach Middle School by way of the Route. The Merle Avenue to Grogan Park route connects to proposed Class II routes along Lakewood Avenue and Oakdale Road, as well as existing neighborhood Class III routes at Rose Avenue and Celeste Way. Cyclists may use the Merle Avenue to Grogan Park route to connect to the Amtrak Station via Class II routes and the existing East Orangeburg Class III route with proposed Amtrak connection segment.

Wayfinding signage should be installed along the Merle Avenue to Grogan Park route, directing bicyclists to other bicycle facilities and significant destinations, such as the Grogan Park and the Amtrak Station. "Bike Lane" and "Bike Route" signage, as appropriate, should also be installed every quarter-mile and at signalized intersections.

PRIORITY PROJECT

MJC EAST-WEST CAMPUS ON-STREET CONNECTOR CLASS II

The East and West Modesto Junior College Campuses are separated by major roads, SR-99, and the active Union Pacific Railroad line. Classes may be taken at both campuses, and many students and instructors currently drive between campuses, which has led to roadway congestion and parking problems. A designated bicycle facility between the campuses will enhance the safety of current bicyclists going between campuses and may encourage bicycle commutes instead of auto trips, thus reducing the demand on local roads and parking.

The implementation of the MJC Connector route would involve the development of new Class II bike lanes on Coldwell/Woodland extending west from the East Campus, and new Class II bike lanes on Carpenter north from Woodland to the West Campus.

This proposed route is not an ideal campus connector primarily due to the steep and somewhat narrow Woodland Avenue/Highway 99 overpass. It does not appear that sufficient width exists for Class II lanes on the overcrossing; therefore appropriate warning signage will be necessary at this constrained location. Wayfinding signage directing bicyclists to the campuses and other bicycle facilities should be installed as well as "Bike Route" signage (MUTCD D11-1) on every block.

As a long-term project, it is recommended that an Off-Street campus connector be developed utilizing the UP Railroad right-of-way for a Class I rail-with-trail facility. This project is discussed in more detail under MJC East-West Campus Off-Street Connector.

Segments of this project are recommended in the Stanislaus County Regional Bicycle Action Plan.

This railroad crossing is on Woodland Avenue just west of 9th Avenue. Bicyclists currently use Woodland because it is one of the only at-grade crossings of the railroad in the northern part of Modesto.

PRIORITY PROJECT

NEEDHAM CLASS II

Located near the SR-99 corridor in eastern Modesto, the Needham Class II facility connects Downtown Modesto with other areas in the east. The facility also enables bicyclists to access Modesto Junior College East, using the Class II spur along College Avenue. The facility connects to other Class III facilities in the Downtown area at 11th and 12th Streets. Traveling south on 12th Street, bicyclists may rejoin 9th Street after H Street.

"Bike Lane" pavement stencils and signage should be installed at the beginning and end of every block. Wayfinding signage should also be installed directing bicyclists to other bicycle facilities and significant destinations, particularly where the route shifts.

PRIORITY PROJECT

OAKDALE ROAD CLASS II

The Oakdale Road Class II Facility project would provide north-south bicycle lanes from Sylvan Avenue Kiernan Avenue. The Oakdale Road lanes would connect to three proposed east-west bike paths, as well as the existing and proposed facilities on Standiford Avenue. Class II bicycle lanes on Oakdale Road would be installed by removing the outside northbound travel lane for some segments, or removing the midblock left turn lane for other segments. In both instances the bicycle lane would be dropped at the approach to the intersection to accommodate for the turning movement. In the long-term, it is recommended that the road be widened in northern stretches of Oakdale where the unpaved shoulder ranges from 5 – 10 feet wide.

Wayfinding signage directing bicyclists to other bicycle facilities and significant destinations should be installed. In addition, "Bike Lane" signage and pavement stencils should be installed at the beginning and end of every block.

This project is recommended in the Stanislaus County Regional Bicycle Action Plan.

Bicycle lanes on Oakdale would be installed by removing a travel lane or the midblock left turn lane. At intersections, the bike lanes would be dropped to accommodate for right or left turn lanes as needed

PRIORITY PROJECT

PARADISE ROAD CLASS II

Currently Modesto has only one bicycle route west of SR-99. Paradise Road is a major arterial connecting from the southwest corner of the city into Downtown at 1st and H Streets. The Paradise Road Class II would continue the G and H Street bike routes in a southwesterly direction, connecting to Carpenter Road.

Wayfinding signage should be installed directing bicyclists to other bicycle facilities and significant destinations. "Bike Lane" signage and pavement stencils should be installed at the beginning and end of every block.

Segments of this project are recommended in the Stanislaus County Regional Bicycle Action Plan.

Paradise Road features mixed-residential, public and commercial land uses and will provide a vital bicycle facility for southwestern Modesto

PRIORITY PROJECT

ROSELLE/LAKEWOOD CLASS II

There are currently no bicycle facilities provided in a portion of northeastern Modesto. The Roselle/Lakewood Class II lanes would connect the northeastern area of Modesto bounded by Oakdale, Claus, Kiernan, and Scenic. This project would include a Class II route on Roselle Avenue between Scenic and Kiernan. This Class II segment would provide a connection to several east west facilities.

"Bike Lane" pavement stencils and signage should be installed at the beginning and end of every block. Wayfinding signage should also be installed directing bicyclists to other bicycle facilities and significant destinations.

Segments of this project are recommended in the Stanislaus County Regional Bicycle Action Plan.

This section of Lakewood/Roselle could accommodate bicycle lanes by narrowing the northbound auto travel lane. Narrowing the travel lane will also help to reduce speed in this segment, enhancing the safety of school children.

PRIORITY PROJECT

SCENIC DRIVE CLASS II

The Scenic Drive Class II Facility project would provide bicycle lanes from Spring Creek Drive to Claus Road. The Scenic Drive lanes would provide a valuable connection toward downtown for commuters from the central eastern neighborhoods of Modesto. There is an existing Class II bike lane on Scenic Drive that runs between Springcreek Drive and Sonoma Avenue. The Class II Bike lanes on Scenic may be installed by narrowing the two outside lanes in each direction.

Wayfinding signage directing bicyclists to other bicycle facilities and significant destinations should be installed. In addition, "Bike Lane" signage and pavement stencils should be installed at the beginning and end of every block.

This project is recommended in the Stanislaus County Regional Bicycle Action Plan.

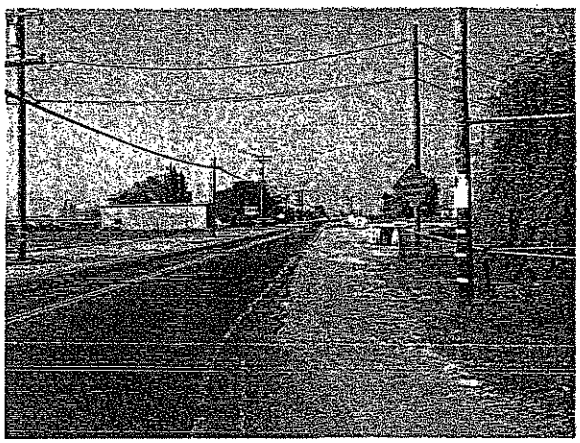
This existing bike lane on Scenic should be widened where possible. In addition, as the above photo illustrates, it is important to keep bicycle facilities clear of debris to maintain effectiveness

PRIORITY PROJECT

SYLVAN AVENUE EXTENSION CLASS II

The Sylvan Avenue Class II Facility project would provide an extension of the existing Class II bike lanes on Sylvan Avenue from Oakdale Road to Claus Road. This project would provide a continuation of one of the major east-west connectors in the northern part of the city, and connect to the proposed Class II facilities on Roselle and Claus.

Wayfinding signage should be installed directing bicyclists other bicycle facilities and significant destinations. "Bike Lane" signage and pavement stencils should be installed at the beginning and end of every block.



The proposed extension of Class II facilities on Standiford/Sylvan Road would require widening the western segment of Sylvan Road, as shown above, just west of the Sylvan Road and Claus Road intersection.

PRIORITY PROJECT

WHITMORE AVENUE CLASS II

The Whitmore Avenue Class II Facility project would provide Class II bike lanes on Whitmore Avenue from S. Carpenter Road to SR-99. This project would link to a proposed bike path on S. Carpenter, proposed bike lanes on Crows Landing, and a proposed bike route on Ustick and Dallas connecting to a future bike/ped bridge over the Tuolumne River.

Wayfinding signage should be installed directing bicyclists other bicycle facilities and significant destinations. "Bike Lane" signage and pavement stencils should be installed at the beginning and end of every block.

PRIORITY PROJECT

12TH STREET/VIRGINIA CONNECTOR CLASS II AND III

The 12th Street/Virginia Connector Class II facility provides a link to the Class I Virginia Corridor Trail, running north-south in Downtown Modesto. The Class II bike lanes on Virginia Street and Class III bike route on 12th Street would enable bicyclists to travel from northern Modesto to Downtown via the Virginia Corridor Trail. The Connector will provide a link to Downtown and other bicycle facilities from the Class I trail. The 12th Street/Virginia facility would link to east west corridors at Needham, and at H and G Streets via J and 9th Streets.

Wayfinding signage should be installed directing bicyclists other bicycle facilities and significant destinations. "Bike Lane" signage and pavement stencils should be installed at the beginning and end of every block.

PRIORITY CLASS III BIKE ROUTE PROJECTS

PRIORITY PROJECT

CONANT AVENUE/MARSALA WAY CLASS III

The Conant Avenue/Marsala Way Class III route provides a north-south connection between Snyder Avenue and Sisk Road. The route connects from Conant Avenue to Marsala Avenue along Veneman Avenue. This route features numerous connections to existing and proposed neighborhood routes traveling west to Vintage Faire Mall, or east to other destinations in northern Modesto. The Conant Avenue/Marsala Way route also provides access to Josephine Chrysler Elementary School and Prescott Senior Elementary School, via W. Rumble Street.

Wayfinding signage should be installed along the Conant Avenue/Marsala Way route, directing bicyclists to other bicycle facilities and significant destinations, such as neighborhood schools and Vintage Faire Mall. "Bike Route" signage should also be installed every quarter-mile and at signalized intersections.

PRIORITY PROJECT

CRATER AVENUE CLASS III CONNECTOR

The Crater Avenue Class III connector route features two north-south legs that connect from Whitmore Avenue in the south to the Tuolumne River at the north: Dallas Street and Ustick Road, connected by Crater Avenue running east-west along the Tuolumne River. A proposed connection to the Tuolumne River Regional Park and new bicycle/pedestrian bridge near the intersection of Crater Avenue and Dallas Street will provide residents of this southeastern Modesto neighborhood with an additional connection to downtown, via the Sutter/MLK Class III route.

Wayfinding signage should be installed along the Whitmore Avenue/Crater Avenue route, directing bicyclists to other bicycle facilities and significant destinations, such as the Tuolumne River Regional Park, Downtown Modesto, and the Dryden Park Municipal Golf Course. "Bike Route" signage should also be installed every quarter-mile and at signalized intersections.

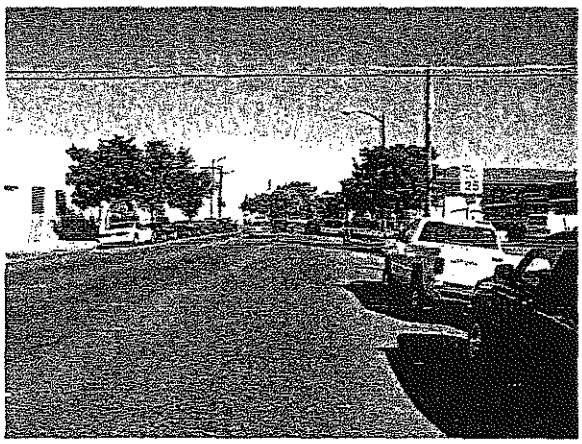
PRIORITY PROJECT

DOWNTOWN G AND H STREETS CLASS III

The Downtown G and H Streets Class III facilities project would provide bicycle routes in downtown Modesto, an area currently lacking in such facilities. The proposed routes would run on G and H Streets from First to Burney Streets. G and H Streets are parallel, one-way couplets that would provide commuter access to the Library, City Hall, Modesto Police station, Employment Development Division building, and the County Office of Education, as well as the nearby Modesto Convention Center. The routes would also connect to the existing bicycle routes on La Loma Avenue and Kimble Street at the northern end of the proposed segment. The southern terminus of the proposed segments would be at the intersections of G and H Streets at First Street, in front of Modesto High School.

"Bike Route" signage should be installed every quarter mile and at signalized intersections. Wayfinding signage should also be installed directing bicyclists to other bicycle facilities and significant destinations.

This project is identified in the Stanislaus County Regional Bicycle Action Plan.



G Street is a one-way roadway with parallel parking on both sides of the street. Bicycle lanes may be accommodated by narrowing the auto travel lanes or removing parking on one side of the street

PRIORITY PROJECT

DOWNTOWN 11TH AND 10TH STREETS CLASS III

The Downtown 11th and 10th Street Class III facility project would provide a north-south bike route facility through downtown Modesto. The proposed routes would begin on 11th Street at Needham, providing a connection to the on-street MJC East-West Campus connector lanes. From Needham, bike routes would extend south along 11th street to J Street. At J Street, the through-route would shift one block west to 10th Street. The bike routes would continue south on 10th Street, connecting to the Tuolumne River Regional Gateway Park.

"Bike Route" signage should be installed every quarter mile and at signalized intersections. Wayfinding signage should also be installed directing bicyclists to other bicycle facilities and significant destinations, particularly where the route shifts from 11th to 10th Streets.

PRIORITY PROJECT

EAST UNION AVENUE/SYLVAN MEADOWS DRIVE CLASS III

Running east-west, the East Union Avenue/Sylvan Meadows Drive Class III route provides a cross-town connection for cyclists in northern Modesto who desire an alternative to existing Class II lanes along Sylvan and Standiford Avenues. The route begins on Palmilla at Tully Drive, heads south on Wesson Ranch Road, turns east along E. Union, south along Dragoon Park and finally east along Sylvan Meadows, terminating at Palmwood Drive. The route provides a connection between Coffee and Tully Roads, on neighborhood streets, and provides access to Stockard Coffee Elementary School and Fred C. Beyer High School. Cyclists can connect with the proposed Snyder Class III route to access destinations in the vicinity of State Route 99.

Wayfinding signage should be installed along the East Union Avenue/Sylvan Meadows Drive route, directing bicyclists to other bicycle facilities and significant destinations, such as Fred C. Beyer High School and Vintage Faire Mall. "Bike Route" signage should also be installed every quarter-mile and at signalized intersections.

PRIORITY PROJECT

EMERALD AVENUE/PANAMA DRIVE/HARRIS AVENUE CLASS III

The Emerald Avenue/Panama Drive/Harris Avenue Class III route travels north-south from Rouse Avenue to Coldwell Avenue by way of Harris Avenue, Alcamo Avenue, Panama Drive and Emerald Avenue. The route provides connections to the Sutter/MLK Class III route via Rouse Avenue. The Emerald Avenue route will enable north-south travel, via Coldwell and Carpenter, from Modesto Junior College West to Tuolumne River Regional Park and the Dryden Park Municipal Golf Course, via the Sutter/MLK route. The Emerald Avenue route jogs at several points and will require adequate signage to lead cyclists through these intersections. The Emerald Avenue route also meets the proposed Paradise Avenue Class II lanes, providing connections to locations downtown. The Emerald Avenue route also has a branch running east-west along Beverly Drive. Several schools may be accesses via the Emerald Avenue route in conjunction with the Sutter/MLK route. They include: Franklin Elementary School, Mark Twain Junior High School, Peter Johansen High School and Robertson Road Elementary School.

Wayfinding signage should be installed along the Emerald Avenue/Panama Drive/Harris Avenue route, directing bicyclists to other bicycle facilities and significant destinations, such as the Tuolumne River Regional Park, Downtown Modesto, and Modesto Junior College West. "Bike Route" signage (MUTCD D11-1) should also be installed every quarter-mile and at signalized intersections.

PRIORITY PROJECT

MILLER AVENUE CLASS III

Beginning at the intersection of Santa Cruz Avenue in the west, Miller Avenue runs east to meet San Ignacio Avenue, Haddon Avenue and Poppypatch Drive, terminating at Melborne Drive. At many points along the route, cyclists may jog north to intersect the existing Riverside Park/Sutton Community Park Class III route, providing connections to both parks and the Creekside Golf Course. The Miller Avenue Class III route provides access to Capistrano Elementary School along Poppypatch Drive.

Wayfinding signage should be installed along the Miller Avenue route, directing bicyclists to other bicycle facilities and significant destinations, such as Dry Creek Regional Park and Sutton Community Park. "Bike Route" signage should also be installed every quarter-mile and at signalized intersections.

PRIORITY PROJECT

MARIPOSA ROAD CLASS III

The Mariposa Road Class III routes provide connectivity throughout the southeast corner of Modesto. They span from Codoni Avenue in the east to Mitchell Road, abutting the Modesto City-County Airport in the west. The route provides an east west connection along Finch Road, as well as north south links along South Riverside Drive, Mariposa Road and Garner Road. South Riverside Drive connects the Mariposa Road route with destinations like the Creekside Golf Course and Dry Creek Regional Park. The Mariposa Road route also connects with other Class II and III facilities which link bicyclists with Downtown Modesto, like the South Morton/Mono Drive Route and La Loma Avenue.

Wayfinding signage should be installed along the route, directing bicyclists to other bicycle facilities and significant destinations. "Bike Route" signage should also be installed every quarter-mile and at signalized intersections.

PRIORITY PROJECT

MARTIN LUTHER KING/SUTTER CLASS III

The Martin Luther King/Sutter Class III Facility project would complement the proposed Maze Road and Paradise Avenue facilities in providing north-south connections to southwest Modesto. The Martin Luther King/Sutter bicycle route would run from Maze Boulevard south to Robertson Road, providing access to the Tuolumne River Regional Park. A connection west into Downtown Modesto could be made at California or Paradise to the G and H Street Facilities.

Wayfinding signage should be installed, directing bicyclists to other bicycle facilities and significant destinations, such as Tuolumne River Regional Park. "Bike Route" signage should also be installed, at a minimum, every quarter-mile and at each signalized intersection.

Segments of this project recommended by the Stanislaus Regional Bicycle Action Plan.

A Class III bicycle route on Sutter/MLK would connect the southwestern Modesto neighborhoods and parks

PRIORITY PROJECT

ORANGEBURG ROAD/AMTRAK CONNECTOR CLASS III

The new Amtrak station near Santa Fe Avenue provides a regional transportation link for the commuters and visitors of Modesto. Currently, there are no existing bicycle facilities that extend east of Claus Road. This project would provide a valuable connection to the Amtrak station by extending the existing Class III facility on Orangeburg Road. The existing Orangeburg Road route, which currently ends at Claus Road, would be extended east of Claus Road to Held Drive. The route would then turn north onto Held Drive, and cross Briggsmore Avenue and terminate at the Amtrak station access driveway. This proposed route would also connect to the proposed Class I bicycle facilities on Claus Road as well as the proposed Class I facility on Briggsmore Avenue which would terminate at the Amtrak station as well.

Additional design requirements for this project would include enhancing the crossing of Claus Road, with bicycle crossing warning signage, as well as wayfinding signage directing bicyclists to the Amtrak Station. A bicycle loop-detector or push-button signal activation device would be installed to facilitate the crossing of Briggsmore Avenue.

The Amtrak station in eastern Modesto is currently not connected to the Modesto bicycle network. Both the proposed Class III route on Orangeburg and the proposed Class I trail along Briggsmore would provide a network connection to the station from other parts of Modesto

PRIORITY PROJECT

RIVERSIDE TO SUTTON PARK CLASS III

The Riverside to Sutton Community Park Class III facility would provide a neighborhood route connecting Riverside Park to Sutton Community. The proposed route would begin at the Encina Avenue route that terminates at Riverside Park on Riverside Drive. The route would extend east on El Pasado Drive, Penny lane, Mechalys Way, Creekwood Drive and finally south on Norseman Drive to the park entrance. This facility would connect to three different schools – Capistrano Elementary, Bernard L. Hughes Elementary and Peter Johansen High School, and fills a need for a residential area without an existing facility.

Wayfinding signage should be installed along the route to direct bicyclists to other bicycle facilities as well as significant destinations, such as parks. "Bike Route" signage and stenciling should be installed at least every quarter-mile and at signalized intersections.

PRIORITY PROJECT

ROSEMORE AVENUE CLASS III

The Rosemore Avenue Class III route provides a north-south neighborhood connection to Modesto Junior College West and Stanislaus County Center No. 5. Where Rosemore Avenue meets Modesto Junior College West, cyclists can transition onto Class II lanes along Blue Gum Avenue which connect Modesto Junior College West with the eastern part of Modesto via additional Class II bike lanes.

Wayfinding signage should be installed along the Rosemore Avenue route, directing bicyclists to other bicycle facilities and significant destinations, such as Modesto Junior College West and Stanislaus County Center No. 5. "Bike Route" signage should also be installed every quarter-mile and at signalized intersections.

PRIORITY PROJECT

SANTA CRUZ AVENUE/COVENA AVENUE CLASS III

Running north-south, Santa Cruz Avenue and Covena Drive connect Dry Creek Regional Park and the Dry Creek Bike Trail to Legion Park. The reach of existing Class III facilities along Covena Drive is extended by linking the route to Santa Cruz Avenue by way of Miller Avenue. The existing bridge over Dry Creek allows cyclists to connect to existing Class II lanes on Coffee Road to the north. A proposed crossing over the Tuolumne River will enable cyclists to access Mancini Park and the City of Ceres to the south. The Santa Cruz Avenue/Covena Avenue route connects the South Morton Boulevard/Mono Drive Route to the Miller Avenue Route, providing east-west Class III connections to Downtown Modesto and the Creekside Golf Course.

Wayfinding signage should be installed along the Santa Cruz Avenue/Covena Avenue route, directing bicyclists to other bicycle facilities and significant destinations, such as the Legion Park, Downtown Modesto, and the Dry Creek Regional Park and Bike Trail. "Bike Route" signage should also be installed every quarter-mile and at signalized intersections.

PRIORITY PROJECT

SOUTH MORTON BOULEVARD/MONO DRIVE CLASS III

The South Morton Boulevard/Mono Drive Class III route provides an east-west connection, via the Santa Cruz/Covena and Miller Avenue routes, from eastern Modesto to locations downtown. The route abuts Beard Brook Park, home of the Modesto Children's Park, and crosses Dry Creek at Gilmore Avenue.

Wayfinding signage should be installed along South Morton Boulevard/Mono Drive route, directing bicyclists to other bicycle facilities and significant destinations, such as the Tuolumne River Regional Park and Downtown Modesto. "Bike Route" signage should also be installed every quarter-mile and at signalized intersections.

PRIORITY PROJECT

SUNRISE - DRAGOO PARK CLASS III

The Sunrise – Dragoo Park Class III facility project would provide a north-south bicycle route that would fill a north-south residential neighborhood gap in the existing bicycle network. The bike route would run on Sunrise Avenue from the intersection with E. Roseburg Avenue, onto Sheffield Lane, then onto Claremont Drive and then Dragoo Park Drive. The route's northern terminus would be at the end of Dragoo Park Drive, adjacent to the Coralwood Mobile Home Community. This facility would connect to the existing Class III facilities on E. Roseburg, Tokay Avenue, and Rumble Road. The proposed route would also connect to the existing Class II facilities on E. Orangeburg and Sylvan Road.

The proposed route would require the installation of "Bike Route" signage at the beginning and end of each block. In addition, wayfinding signage to significant destinations and other bicycle facilities should be installed.

PRIORITY PROJECT

SNYDER CLASS III

The proposed Snyder Class III route would provide a valuable east-west connection from Tully Road to Sisk Road near the western border of Modesto, adjacent to the Vintage Faire Mall and State Highway 99. This route would provide a designated facility for commuters and would also provide a neighborhood route that would connect residential areas and two neighborhood parks. The route would extend west on Snyder Avenue from Tully Road, past McKinney Colony Park and Mildred Perkins Park, then branch onto Blue Bird Drive. The route on Blue Bird would go north and terminate at Pelandale Avenue, connecting to the proposed Pelandale Avenue Class I facility. The route would also go south on Blue Bird to Setrok Drive. The route would go west onto Setrok Drive, then south onto Gagos Drive, then west onto Vintage Drive and then South onto Sullivan Court to Sisk Road. The proposed facility would also pass by Mildred Perkins Elementary School.

Wayfinding signage should be installed directing bicyclists to other bicycle facilities and significant destinations. "Bike Route" signage should be installed at least every quarter-mile and at signalized intersections.

PRIORITY PROJECT

14TH STREET CLASS III

The proposed 14th Street Class III Bike Route facility would provide a northwest-southeast route through downtown. It would connect from Yosemite at D Street, northwest to Needham Street.

"Bike Route" signage should be installed at the beginning and end of every block. Wayfinding signage should also be installed directing to other bicycle facilities and significant destinations.

This project is recommended in the Stanislaus County Regional Bicycle Action Plan.

6. PEDESTRIAN IMPROVEMENTS

This section introduces the elements and actions necessary to create a safe, well-designed system of pedestrian facilities. The City of Modesto may consider the standards provided here when planning all construction or redevelopment of pedestrian facilities. By following these guidelines and recommendations, the City can implement a cohesive strategy providing facilities that are consistent in terms of safety and design that match the City's pedestrian infrastructure needs and goals.

PEDESTRIAN NEEDS

A safe and functional pedestrian environment – one that may encourage people to walk and accommodates citizens with mobility impairments – is composed of numerous features that require careful planning, design, and maintenance. In addition, it is important to provide access to destinations that attract pedestrian travel, such as schools and parks, neighborhood shopping, transit stops, libraries, post offices, and other public facilities. Features of a safe and functional pedestrian network include:

- Sidewalks and pathways that connect origins and destinations, and are wide enough to comfortably accommodate the expected pedestrian volume
- Surfaces that are as smooth as possible to prevent any difficulties that may confront those using assisted mobility devices;
- Intersections should have well-designed curb ramps on all corners;
- Marked crosswalks should be and remain highly visible through design and maintenance;
- Traffic signal phasing should allow adequate time for pedestrians to cross;
- Streetlights may be needed in some locations to improve visibility of nighttime crossings; and
- Regular maintenance of encroaching vegetation or other obstacles that may impede visibility and mobility.

AMERICANS WITH DISABILITIES ACT OF 1990

Persons with disabilities are particularly sensitive to design features that contribute to improved walking or rolling conditions. The Americans with Disabilities Act (ADA) of 1990 requires recognition of the particular needs of physically and mentally impaired individuals. This civil rights act prohibits public entities from designing new facilities or altering existing facilities that are not accessible to people with disabilities. As a result of ADA, curb ramps, for example, are a basic component of all sidewalk construction.

Sidewalk construction, curb ramp design, and other accessibility standards have been developed on a federal level in two documents, the Uniform Federal Accessibility Standards (UFAS) and the Americans with Disabilities Act Accessibility Guidelines (ADAAG). States are given the option to adhere to one of these, but may also adopt more stringent standards than the Federal minimum guidelines. Caltrans conforms to the policies of UFAS and Title 24 of the California Code of Regulations. Title 24, developed by the Division of the State Architect, has some stricter accessibility requirements than UFAS. In 2001, the Federal Highway Administration released *Designing Sidewalks and Trails for Access, Part II, Best Practices Design Guide* to provide the most up-to-date guidance on the design and construction of accessible pedestrian facilities.

Designing pedestrian facilities to accommodate persons with disabilities improves the walking experience for all users. Whenever one is analyzing, planning, or designing pedestrian facilities, accommodating persons with disabilities should be a priority that sets the standard for design. For example, curb ramps are helpful to parents pushing strollers, delivery persons pulling dollies or carts, and small children on bicycles. Wide sidewalks invite people to stroll side-by-side and enable wheelchairs, bicycles, strollers, and scooters to pass others with minimal conflict. Smooth surfaces reduce the risk of interfering with mobility devices such as walkers, as well as reduce the risk of elderly pedestrians and small children tripping.

EXISTING PEDESTRIAN FACILITIES

The state of pedestrian facilities in Modesto is extremely variable. Some areas of the city have good facilities and some do not. Some residential neighborhoods and parts of downtown have well-connected and well-maintained sidewalks, paths, and crosswalks. However, many of Modesto's commercial and residential subdivisions developed over the last 50 years may have been built without sidewalks or without adequate concern paid to pedestrian needs. These developments were designed for motor vehicle access and sidewalks may have been deemed less important. Other areas may have been developed without sidewalks in an attempt to preserve a "country living" quality at a time when Modesto was less populated.

In many neighborhoods, especially neighborhoods that were not developed as part of more formal subdivisions, sidewalks may be missing altogether. The areas developed incrementally are often served by narrow roadways with neither shoulders nor sidewalks. Adding sidewalks after the fact is difficult: adequate right-of-way is often unavailable or difficult to develop. Residents have often "adopted" undeveloped right-of-way and have incorporated it into their front yards.

RECOMMENDED IMPROVEMENTS

The following actions can help create the safe, direct, and well-connected system of facilities needed to encourage more Modesto residents to walk.

IMPROVE SIDEWALKS

The sidewalk is the most obvious element of the pedestrian network. The sidewalk must have a clear path wide enough to accommodate the widest mobility device as well as the expected volume of pedestrian traffic. This "clear zone" must be free of street furniture, signposts, sandwich boards,

and any other obstructions. In most residential neighborhoods in Modesto, a five-foot sidewalk would provide enough space for two people to walk side by side. Sidewalks along arterial or major streets should have wider sidewalks, especially if the sidewalk abuts the curb, to provide increased distance between pedestrians and vehicles. Where adjoining businesses or other destinations would attract more pedestrians, the sidewalks should be about seven feet wide to accommodate wheelchairs traveling side-by-side, or two people walking together while passing a third. Where even higher pedestrian use is expected, such as downtown, on shared-use paths, or around schools, community centers, and parks, 10 to 12 feet is preferable.

IMPROVE PEDESTRIAN CROSSINGS

Safe and clearly marked street crossings are critical parts of a pedestrian network. Crossings, the most challenging aspect of pedestrian travel, are where nearly all pedestrian/motorist collisions occur. One method to improve pedestrian safety is to shorten the crossing distance. Pedestrian refuge islands, curb extensions, reducing curb return radii, and eliminating a travel lane are popular measures used to reduce the width of the intersection. Another way to increase pedestrian safety is by using devices to warn motorists of the presence of pedestrians, such as signs, signals, lights, and lighted crosswalks. Removing sight obstructions, such as parked cars, trees, and signs also improves visibility.

Traffic signal timing is an important aspect of pedestrian crossing safety. Some pedestrians, especially people with mobility impairments and the elderly, need additional crossing time. Longer crossing times should be considered in areas expected to serve slower pedestrians, such as near retirement homes. However, increased pedestrian crossing time must be balanced with traffic flow operation such that the increased crossing time does not come at the expense of excessively long wait times, which can cause pedestrians to grow impatient and cross during gaps in traffic. Pedestrian actuated signals are an option to respond to pedestrian crossing demand.

Some conditions may require more extreme treatments. For instance, pedestrians are restricted from crossing some intersections due to the complexity of the turning movements or poor visibility. A special bicycle / pedestrian overcrossing or undercrossing may be constructed to overcome such restrictions or to cross a large barrier, such as an interstate highway or major arterial roadway. However, these treatments are generally reserved for unusual situations as they are very expensive.

On long blocks in pedestrian districts or near schools, a mid-block crossing may be justified. These crossings must be well designed and highly visible to avoid conflicts.

PROVIDE SIDEWALK BUFFERS

The level of comfort a pedestrian experiences while walking on a sidewalk can be enhanced with a planting strip or a buffer zone. Extra space between the sidewalk and the curb protects pedestrians from being hit by opening car doors or splashed by water accumulated at the side of the roadway. Sidewalk buffers may also increase the sense of safety while walking beside heavy or fast traffic. Buffer space can be used for streetscape improvements, further enhancing the attractiveness of a corridor for all users, or as space for other corridor amenities such as poles and signs. Buffers should be two to four feet along residential streets and four to six feet along arterial or major streets.

ENSURE CONNECTIVITY

Modern developments, whether commercial and industrial projects or residential subdivisions, can present connectivity challenges for pedestrians. They may be separated from neighboring land uses by barriers like walls, and are typically planned with limited access points. For instance, people must often walk hundreds of feet out of their way to a collector street to reach the entrance of a neighboring subdivision. By including short, direct pedestrian connections between adjoining land uses, jurisdictions can make walking (and bicycling) more attractive. These connections between adjacent land uses along access easements provide "short-cuts" not available to motorists.

IMPROVE THE STREETSCAPE

In some areas, a higher level of attention to the details of the pedestrian environment is justified by expected high pedestrian use and to encourage pedestrian activity. Streets where the elements are scaled to human size rather than vehicle size are attractive to pedestrians. Streetscape improvements such as public art, benches, drinking fountains, trash receptacles, special transit shelters, and pedestrian-scaled lighting fixtures are amenities that help balance the pedestrian-motorist environment.

ALTERNATIVE SIDEWALK MATERIALS

To meet ADA requirements, a walkway must be firm, stable, and slip-resistant. Portland cement concrete is the most widely used sidewalk material for its versatility and durability. When properly maintained, it can last one hundred years. Asphalt is an alternative to concrete that is usually less expensive, but requires more maintenance and lasts only about 40 years. Brick, aggregate, and cobblestone are other materials that are used, often for their decorative properties. These are more costly and may not be as smooth or slip resistant. However, they can be visually appealing and are often used for sidewalk borders or buffer zones. Unpaved trails can still meet ADA requirements with materials like decomposed granite, packed soil, and other natural surfaces with proper base material preparation. Soil stabilizers can also be applied to bind soil or aggregates into a hardened, durable surface.

ILLUMINATION

Good lighting is one key to pedestrian safety, especially at intersections. Lighting pedestrian facilities also increases the comfort and perception of personal security, thereby influencing route choice and their decision whether or not to walk. In commercial areas, local businesses can help by keeping front windows lit, which not only provides lighting to passersby but also encourages after-hours window-shopping. Walnut Creek in Contra Costa County has a lamppost adoption program that grew out of the Downtown Enhancement and Street Lighting Project. Individual contributions help to fund the replacement cobra-style streetlights with "old town" decorative pedestrian lighting. However, in residential areas, the brightness and style must be tailored to the neighborhood experience.

LANDSCAPING AND STREET TREES

Landscaping and street trees enhance the walking experience and provide shade. Upward branching trees and low growing shrubs are ideal selections to provide shade without blocking visibility. Care must be given to selecting trees with root structures that will not damage sidewalks. Also, trees and

shrubs must be trimmed near and above sidewalks to avoid creating hazards for the visually impaired. Trees must also be planted and trimmed so that they do not block pedestrian lighting.

ADJOINING DESIGN

Pedestrian facilities can attract greater use where they are adjoined by buildings and spaces that provide pleasing and interesting views. In downtown areas, vibrant, changing window displays instead of blank walls and covered windows or parking lots create a more engaging, and thus more attractive, environment. Sidewalks that are bordered by a "streetwall" of welcoming storefronts can persuade people to walk from place to place, creating both more pedestrian and economic activity. Limiting the amount of parking along sidewalks or providing buffers between parking and sidewalks can also help define the pedestrian sphere.

APPLY TRAFFIC CALMING

Over the past several years, "traffic calming" has grown in popularity as a technique to improve both bicycle and pedestrian safety, especially in residential areas. Traffic calming devices are installed to slow motorists, increase awareness of bicyclists and pedestrians around them, reduce cut-through traffic, and reduce the impacts of higher speed collisions. Common traffic calming devices are described here.

Traffic circles force motorists approaching an intersection from all directions to slow down. This allows more opportunity for pedestrians to cross the street.

Curb bulb-outs, chokers, and neckdowns reduce the width of the street, thus decreasing the crossing distance for pedestrians and slowing motor vehicular traffic.

Diagonal diverters prohibit through traffic by forcing motorists to turn at intersections. The diverter is typically designed to allow bicycle and pedestrian through movement. A partial diverter can limit traffic access in one direction but allow through traffic in the opposite direction. These diverters also narrow the crossing distance for pedestrians. Street closures are a form of a traffic diverter that should only be utilized in extreme cases.

Speed humps are raised asphalt devices that force automobiles to slow down or risk damage to the vehicle. Well-designed humps work well for bicyclists. Raised intersections and raised crosswalks serve a similar purpose while boosting pedestrian awareness.

Narrower streets affect motorist behavior in a psychological manner. If the driving space is perceived as narrow, motorists will react by driving more carefully. Narrowing the street – or the motorist's field of vision – can be achieved in a number of ways: street trees, striping (bike lanes), contrasting pavement or texture on the roadway edges, and on-street parking.

Many cities around the country have created neighborhood traffic plans that involve residents and city staff working together to find solutions to cut-through traffic, speeding vehicles, and neighborhood safety problems. Traffic calming devices typically are used to accomplish the goals articulated by the neighborhood residents.

IDENTIFY AND IMPROVE PEDESTRIAN DISTRICTS

Pedestrian districts are areas of dense land use and intense, or potentially intense, pedestrian activity. They are often formed and classified in land use plans and come with strict pedestrian-friendly design requirements. Downtowns, neighborhood retail hubs, transit-oriented developments, college campuses and surrounding areas, mixed-use developments, and strip retail centers can all be classified as pedestrian districts. It is recommended that City of Modesto identify pedestrian districts that meet or could meet specified criteria. Once designated, the City should establish specific policies and design guidelines for these districts. The General Plan would provide the basic policy direction and the designation of each district. Specific plans or an area redevelopment plan may serve as a vehicle for outlining detailed improvements to the pedestrian environment as well as improvements that support the health and viability of businesses and other activities within the district. Changes to local zoning and subdivision standards may be made to provide alternative development standards within pedestrian districts. Finally, the City of Modesto can use these plans and policies, as well as surveys of streets within their control, to identify improvements and include them within capital improvements programs.

PEDESTRIAN IMPROVEMENT PROJECTS

While the average bicycle trip is less than two miles in length, pedestrian trips average less than one-half mile. Highly localized improvements such as curb ramps or sidewalk linkages to transit are more important than a regional pedestrian network. Therefore, recommended pedestrian projects and programs consist of improvement packages that can be implemented in specific areas or on specific corridors by local agencies. In some cases, projects listed as a bikeway improvement, specifically bike paths or shared use trails, are pedestrian facilities as well. Two basic pedestrian enhancement types are presented in this plan: Americans with Disabilities Act (ADA) Improvements and Pedestrian Districts.

Pedestrian Districts

Local communities wishing to enhance the pedestrian environment in local commercial areas, employment areas, and downtowns may establish a "pedestrian district." Designating these districts would allow for more innovative treatments of the public right-of-way, focus improvements in targeted areas, and promote walking as the primary mode of transportation. Pedestrian districts should be linked to the city's bicycle network, and include support facilities like bicycle racks to encourage people to bicycle to the district, lock up their bike, and walk around.

Identifying pedestrian districts can occur during the General Plan process, perhaps as part of the Circulation Element, and identified on land use maps. Other possible methods to enhance or create pedestrian districts include the following.

Subdivision requirements for new developments may call for mixed uses, narrower streets, shorter blocks, and additional emphasis on the pedestrian environment.

Overlay districts place requirements and regulations in addition to the base zoning requirements in specific areas to achieve goals. Pedestrian overlay districts could be applied to downtowns, areas surrounding college campuses, and transit centers to require additional pedestrian amenities and

encourage pedestrian activity. These districts may also include exemptions to level of service standards.

Land Use is the most critical aspect of a successful pedestrian district. The area should be zoned to encourage a dense mix of residential and commercial uses and discourage more auto-oriented uses such as fast food restaurants with drive-up windows and auto dealerships or repair shops. This strategy makes it more convenient to walk to many destinations for work, leisure, or running daily errands within a relatively small area. A mix of uses can also instigate round-the-clock activity.

The **Plan Area** must be large enough to promote a relatively substantial amount of development and land use mix but not so large that people may feel compelled to drive to reach destinations within the district. The Portland (OR) Pedestrian Plan recommends an area no less than 600 feet and no more than one mile in any direction.

Specific Plans provide an overall and detailed plan for land uses and development within a more circumscribed part of a community. The specific plan lays out design guidelines and improvements within the public right-of-way, including pedestrian improvements and can be the basis for assessment districts used to finance these improvements.

Design guidelines can be created to ensure new public and private development meets certain design standards and provide necessary pedestrian amenities.

Convenient and frequent **Transit** connections provide attractive alternatives to driving and broaden the realm one can travel without a vehicle. Similarly, a pedestrian district should welcome bicycles by providing ample parking and bikeways throughout the district to encourage non-motorized movement.

Assessment Districts, Community Facilities Districts, and similar funding mechanisms require property owners to pay a fee to cover special improvements such as landscaping, lighting or maintenance. To delineate a pedestrian district, jurisdictions should locate areas that meet, or could meet, most of the following characteristics:

The visual interest of **Building Facades** is important for pedestrians. Every effort should go into avoiding blank walls, plated glass, vacant lots, etc. and encouraging window displays, sidewalk cafes, art work, and interesting architectural design elements that help create a sense of place and welcoming environment.

All **Roadways** within the district should contain safe, convenient and connected facilities so that pedestrians feel welcomed. Wide, unobstructed sidewalks should be built on both sides of each street, and curb extensions, street trees, lighting, and improved crosswalks should be provided. Traffic calming devices, lower speed limits, narrowed travel lanes, traffic signals timed to walking speeds, and similar improvements lessen the conflicts between pedestrians and automobiles.

Parking Lots should not dominate views from the sidewalk. Surface parking should be screened from the right-of-way by walls or fences and landscaping. However, for security reasons, the

screening should be at a height (3 to 4 feet) that permits visibility from the sidewalk. When possible, parking garages should have commercial uses on the ground level for continuity of the district. Parking should be allowed on the street to provide more protection for pedestrians from traffic and to serve as a form of traffic calming. Direct pedestrian connections should be provided to parking lots and walking routes should be well-lit when passing between buildings and along pathways within parking lots.

Pedestrian Accessibility Projects

Title II of the Americans with Disabilities Act (ADA) and the U.S. Access Board have developed guidelines for constructing new and altered "accessible" infrastructure for persons of all abilities. Local agencies that plan and construct pedestrian facilities should be kept informed of the latest recommendations. Several projects and programs can address accessibility needs.

First, agencies are advised to analyze current design standards and policies to ensure they meet or exceed current recommended standards. Sidewalk width, ramp construction (including coloration, tactile warning, and placement), crosswalk markings, pavement materials, driveway approaches, pedestrian signals (including audible signals), and signal timing are among the most basic elements that directly affect pedestrian and wheelchair mobility.

Second, the City of Modesto and other local agencies should prepare assessments of the pedestrian facilities in their jurisdiction and develop a plan to correct deficient facilities. Locations to receive priority for improvements include institutions that serve people with disabilities, hospitals, senior centers, nursing homes and assisted living centers, downtowns, civic centers, public buildings, parks, community facilities, and transit routes and stations. Some cities have developed programs that serve individual requests. For instance, if a child in a wheelchair cannot easily travel to school, gaps in the sidewalk system are closed and curb ramps installed. This demands a great deal of commitment on the part of the City and assorted agencies, but is invaluable to the public. The City of Modesto may identify a lump sum amount in their capital improvement program (CIP) to address these special requests.

7. BICYCLE AND PEDESTRIAN SUPPORT PROGRAMS

Support Programs are an important component of the Non-Motorized Transportation system, as they further improve safety and convenience for bicyclists and pedestrians.

SAFE ROUTES TO SCHOOL

This Plan has identified a number of routes that will benefit schoolchildren that walk or bicycle to school. Identifying and improving school routes is one of the most effective means of reducing AM traffic congestion and addressing existing safety problems. Most effective school commute programs are joint efforts of the school district(s) and City, with parent organizations adding an important element.

RECOMMENDATION

Develop a Safe Routes to School Program

Safe Routes to School (SR2S) programs are growing in popularity nationwide. SR2S programs are often designed to decrease traffic and pollution and increase the health of children and the community at large. The programs promote walking and bicycling to school through educational efforts and incentives that stress safety and fun for the participants. SR2S programs also address the safety concerns of parents by encouraging greater enforcement of traffic laws, educating the public, and exploring ways to create safer streets.

The basic components of a SR2S program include:

- **Encouragement** – school commute events and frequent commuter contests are used to encourage participation.
- **Education** – students are taught safety skills and educational campaigns aimed at drivers are developed.
- **Enforcement** – various techniques are employed to ensure traffic laws are obeyed.
- **Engineering** – infrastructure improvements are constructed to improve the safety of school commute routes.

Why Do We Need SR2S?

The purpose of a SR2S program is to identify and improve school commute routes, to increase the number of students who walk and/or bicycle to school, to lessen traffic congestion, and to improve health. Walking and biking to school can be healthy alternatives to being driven, and can provide a sense of independence for children who may otherwise be restricted by school bus or parents' schedules.

What Are the Benefits of a SR2S Program?

The primary benefit of implementing a SR2S program is the resulting increase in safety for children walking and riding bicycles to school. A comprehensive strategy based on a cooperative effort between school officials, parents, residents and city planning staff will ensure that specific school-related traffic calming projects and pedestrian and bicycle improvements will become priority projects eligible for State, Federal or other grant funding. The involvement of various stakeholders throughout the Safe Routes process increases the likelihood for implementation of needed safety improvements. While the primary focus of a SR2S program is improving safety for children walking and biking to school, these safety benefits can extend to all age and activity groups. In addition to safety enhancements, a SR2S program helps integrate physical activity into the everyday routine of school children. Health concerns related to sedentary lifestyles have become the focus of efforts both statewide and nationally to reduce health risks associated with being overweight. Identifying and improving routes for children to safely walk and bicycle to school is one of the most cost effective means of reducing weekday morning traffic congestion and can help reduce auto-related pollution.

SR2S Program Outline

School commute projects need to be developed in a traditional planning process that includes (a) school administrators and teachers, (b) local PTA's and other groups, (c) neighborhood groups and the public, (d) police departments, and (e) County public works department. The planning process can be accomplished by these groups using the step-by-step process outlined below, or by enlisting professional services.

1. Form a School Commute Task Force composed of representatives from the school district, public works and law enforcement agencies, the local neighborhood, parent-teachers or other similar group, and the school itself.
2. Set objectives and a reasonable schedule for this Task Force to accomplish its goals.
3. Determine the preferred basic school commute routes to the school based on (a) parent and student input, (b) a survey of parent and student community patterns, (c) public works and law enforcement input, and (d) observations of actual commuting patterns.
4. Are there any efforts to guide students who wish to walk or bicycle to school? Does the school provide a map of recommended routes?
5. Does the school wish to encourage more students to walk or bicycle to school? While there is a perception of safety being a concern, statistics show that walking and bicycling are just as safe as driving. Yet many parents insist on driving their children even a few blocks to school--thus contributing to the traffic congestion.
6. Study the parking lot and drop off areas of the school. Is there a pattern where students are walking between cars or through parking lots or drop off areas to reach the school? Are there are management efforts to get parents to follow any specific drop-off protocol?
7. Are there adequate sidewalks and bike lanes on the streets directly serving the school? Are there school access points which encourage students to cross midblock or at other less desirable locations?

8. Where are the first major street crossings on the main school commute routes? Many accidents occur at these intersections. Are they signalized? Is the signal timing adequate even for younger students? Are there crossing guards?

9. Are there any locations where students are crossing major or minor streets at midblock or unprotected locations, i.e., no stop signs or signals? Because children are sometimes hard to see and have difficulty in gauging vehicle speed, these locations can the focus of improvements.

10. Do students have to cross intersections that have very wide turning radii, where vehicles can accelerate and merge while turning? These are problematic because drivers are focused to their left at merging traffic rather than in front at crosswalks.

11. Do all intersections have properly designed crosswalks? The crosswalks should be located so that students can wait safely on the sidewalk prior to seeing if they can cross. Is there adequate visibility and lighting given the speed of traffic? Are there adequate warning signs in advance of the crosswalk?

12. What are the 85th percentile speeds of traffic on the major school commute corridors? Are they significantly above or below the posted speed limits? When was the last speed survey conducted? What is the level of police enforcement, and does it occur only at the beginning of the school year? It is possible to lower speed limits near schools. In other locations, it may be necessary to make physical changes, such as narrowing travel lanes, to slow traffic. It may also be preferable to accept slightly more congestion on a two-lane street, and have slower speeds, than have free flowing high-speed traffic on a four-lane street.

13. School Commute Projects involve numerous often-small incremental changes to sidewalks and roadways, such as adjustments to signal timing or new signing or lighting. In other cases, innovative lighted crosswalk treatments or even grade separation may be warranted. Working with the Task Force will help a school determine the best mix of improvements suitable for each corridor, and compatible with local traffic conditions.

14. A more detailed evaluation methodology, which rate improvements and corridors according to objective criteria, has been developed and is available for use by local schools. However, it may require the services of specialists who understand traffic safety and engineering.

15. Once the improvements have been identified, a preliminary design or plan must be completed which describes the project and its cost. For example, a crosswalk improvement would need to be designed so that it can be reviewed and approved by the appropriate agency. Again, a professional may be engaged for this effort.

16. With a plan and cost estimate, the project still needs a sponsor. Typically this would be the public works department, who are best connected to available funding sources and familiar with the State and Federal procedures necessary to obtain funding. The project sponsor will need an official authorization, and confirmation that (a) the right-of-way is publicly owned, (b) staff have reviewed and approved the project, and (c) no negative impacts have been identified. With this in hand, the project sponsor can seek funding, which usually requires a 10% or greater matching amount.

17. Programs that may be implemented include a "Walking School Bus Program", which involves parents taking turns walking (or bicycling) with groups of children to school. Other innovative programs are identified in Marketing, Education, and Support Programs.

EDUCATION PROGRAMS

The local school districts, Modesto Police Department, and City departments have a long history of trying to improve safety conditions for bicyclists and pedestrians. Unfortunately, the lack of education for bicyclists, especially younger students, continues to be a leading cause of accidents. For example, the most common type of bicycle accident reported in California involves a younger person (between 8 and 16 years of age) riding on the wrong side of the road in the evening hours. Studies of accident locations around California consistently show the greatest concentration of accidents is directly adjacent to elementary, middle, and high schools. Many less-experienced adult bicyclists are unsure how to negotiate intersections and make turns on city streets.

Bicycle education programs in schools are typically taught once a year to third, fourth and fifth graders. Curriculum is generally derived from established programs developed by groups such as the California State Automobile Association, and taught by members of the police department. Budget cuts, demands on students' time, and liability concerns limit the extent of bicycle education to school children. Formal adult bicycle education is virtually non-existent.

Pedestrian education programs are rare, but important as well. School children need to understand how to safely cross the road (e.g. scanning for cars), where the best places to cross are, never to cross behind a bus or car, etc. Pedestrian education should be taught as early as first grade, and continue through third grade.

RECOMMENDATIONS

School Children Bicycle and Pedestrian Education

Existing school education programs should be expanded in a cooperative effort between the City and local school districts, and supported by a secure, regular funding source. A joint City/school district Safety Committee should be formed consisting of appointed parents, teachers, student representatives, administrators, police, active bicyclists and Transportation Department staff whose task it is to identify problems and solutions, ensure implementation, and submit recommendations to the School Boards or City Council. This effort will be complementary to the physical improvements recommended in the Safe Routes to School Program priority project.

Education materials should be expanded to promote the benefits of bicycling, the need for education and safety improvements, the most recent educational tools available in the country (including the use of low-cost safety videos), and directives to parents on the proper school drop-off/pick-up procedures for their children. Educational pamphlets for children should be made more readable. Incentive programs to reward good behavior should be developed. Educational programs, especially on-bike and on-street pedestrian training should be expanded to more grades and for more hours per year. Education curriculum should, at a minimum, cover the following lessons:

- On-bike training or bicycle "rodeos"
- Use and importance of bicycle helmets

- How to adjust and maintain a bicycle
- Night riding (clothes, lights)
- Rules of the road
- Riding on sidewalks
- How to negotiate intersections
- Riding and walking defensively
- Use of hand signals
- Seatbelt safety

Adult Bicycle Education

Establish an adult bicycle education program through Modesto's bicycling organizations such as the Stanislaus County Bicycle Club, in cooperation with local bike shops and the Parks, Recreation and Neighborhoods Department and/or other City departments. This program should (a) teach adults how to ride defensively, (b) teach adults how to ride on a variety of city and county streets, and (c) encourage adults to feel more confident to ride to work or for utilitarian and recreational trips. Work with local bicycling groups who could provide the training expertise, and possibly lead organized bicycle-training sessions, tours and rides.

Provide Safety Handbook

A standard safety handbook format should be developed incorporating the best elements of those currently in use, and made available to each school district on disk to they may be customized as needed. Schools should develop a circulation map of the campus and immediate neighborhood showing the preferred circulation and parking patterns and explaining in text the reason behind the recommendations. This circulation map should also be a permanent feature in all school newsletters. Bicycle helmet subsidy programs are available in California and should be used to provide low-cost approved helmets for all schoolchildren bicyclists.

Educate Motorists

Motorist education on the rights of bicyclists and pedestrians is virtually non-existent. Many motorists mistakenly believe, for example, that bicyclists do not have a right to ride in travel lanes and that they should be riding on sidewalks. Many motorists do not understand the concept of "sharing the road" with cyclists, or why a bicyclist may need to ride in a travel lane if there is no shoulder or it is full of gravel, glass, or potholes. Educate motorists about the rights and characteristics of bicyclists and pedestrians through a variety of means including:

- Making bicycle safety a part of traffic school curriculum.
- Producing a brochure on bicycle safety and laws for public distribution.
- Enforcing existing traffic laws for both motorists and bicycles.

- Sending an official letter to the Department of Motor Vehicles recommending the inclusion of bicycle laws in the drivers license exam.
- Developing and holding bicycle and pedestrian planning and design training for all transportation engineers and planners in the City of Modesto.
- Working with contractors, subcontractors and City maintenance and utility crews to ensure they understand the needs of bicyclists and follow standard procedures when working on or adjacent to roadways.
- Working with towing companies and emergency clean up crews so they better understand the needs of bicycles.
- Installing signs that read 'Share the Road' with a bicycle symbol along all routes of the proposed primary system where bike lanes are not feasible, travel lanes are under 14 feet wide, and ADTs exceed 10,000.

ENCOURAGEMENT PROGRAMS

Without community support, a bicycle/pedestrian plan lacks the key resources that are needed to ensure implementation over time. While the Modesto Public Works Department may be responsible for designing and constructing physical improvements, strategies for community involvement will be important to ensure broad-based support – which translates into political support – to help secure financial resources. Involvement by the private sector in raising awareness of the benefits of bicycling and walking can range from small incremental activities by non-profit groups, to efforts by the largest employers in the City. Specific programs are described below.

RECOMMENDATIONS

Facilitate the Development of Incentive Programs

Employer incentives to encourage employees to try bicycling or walking to work include providing bicycle lockers and shower facilities, and offering incentives to employees who commute by bicycle or walk by allowing for more flexible arrival and departure times, and possibly paying for transit or taxis during inclement weather. The City may offer incentives to employers to institute these improvements through air quality credits, lowered parking requirements, reduced traffic mitigation fees, or other means. Other efforts should include:

- Develop, promote and publicize bicycle commuter services, such as bike shops selling commute gear, bikes-on-transit policy, and regular commute rides.
- Implement a Bicycle Friendly Businesses Program.
- Create an annual commuter challenge for local businesses.
- Create events such as "bicycle to the grocery store" days, when cyclists get vouchers for, or coupons off items in the store, or "walk to the movies" days, when cyclists and pedestrians receive free popcorn or a discount on a movie or refreshments.

- Create public service announcements on radio and TV to promote the health and livability benefits of bicycling and walking, as well as the detrimental effect of excessive motor vehicle use (e.g. air pollution, traffic noise, congestion).
- Work with Parks, Recreation and Neighborhoods Department to deliver a "benefits of bicycling and walking message" to youth that are working on water, air, and general pollution activities.
- Hold an annual community event to encourage residents to replace one car trip a week with a bicycle trip.
- Promote and publicize new and existing education and encouragement efforts by community groups and businesses.
- Support planning and implementation of an annual mass bicycling ride in Modesto to attract new riders, showcase the city, and demonstrate the benefits of bicycling.
- Develop and implement a public education campaign to encourage bicycling and walking, such as ads on movie screens, city bench, bicycle locker and billboard advertising, and videos on cable access television.
- Develop measures to reduce bicycle theft such as a registration program, subsidized locks, and training for proper locking techniques.

Bicycle Clunker and Parts Program, Bicycle Repair Program

This program involves obtaining broken, stolen, or other bicycles and restoring them to working condition. The program's dual mission is also to train young people (ages 12 to 18) how to repair bicycles as part of a summer jobs training effort. Bicycles are an excellent medium to teach young people the fundamentals of mechanics, safety, and operation. Young people can use these skills to maintain their own bicycles, or to build on related interests. The program is often staffed by volunteers from local cycling organizations and bicycle shops, who can help build an interest in bicycling as an alternative to driving. The seed money to begin this program often comes from a local private funding source. The proposal submitted to this source should clearly outline the project objectives, operating details, costs, effectiveness evaluation, and other details. The bicycles themselves could be derived from unclaimed stolen bicycles from the police department, or from donated bicycles. The program will need to qualify as a Section 501c(3) non-profit organization to offer tax deductions.

Community Trail Adoption

Programs to have local businesses and organizations "adopt" a Class I pathway similar to the adoption of segments of the Interstate Highway system. Small signs located along the pathway would identify supporters, acknowledging their contribution. Support would be in the form of an annual commitment to pay for the routine maintenance of the pathway, which in general costs about $8,500 per mile. Parks, Recreation and Neighborhoods, or local groups, may administer this program. Other funding mechanisms for Class I facility maintenance programs are discussed in Chapter 8, Implementation.

Bike-to-Work and Bike-to-School Days

The City should continue to hold an annual Bike-to-Work day in May, in conjunction with the California bike-to-work week activities. Continued police presence in the Bike-to-Work Day activities through escorted routes should be continued, as should city staff presence at "energizer" stations along the route. Local Bike-to-School days could be jointly sponsored with the School Districts, possibly in conjunction with bicycle education programs.

Bike and Walking Fairs and Races

Hosting bike fairs and races in Modesto helps to raise the profile of bicycling in the area. The local Family Cycling Festival held in May includes a number of events to promote cycling. Activities include a bicycle safety check, bicycle rodeo/safety course, bicycle licensing. Bicycle stunt shows and an amateur criterium race are also being held to attract people to the event.

Events would need to be sponsored by local businesses, and involve some promotion, insurance, and development of adequate circuits for all levels of riders. It is not unusual for these events to draw up to 1,000 riders and walkers, which could bring some additional expenditures into the area. The City can assist in developing these events by acting as a co-sponsor, and expediting and possibly underwriting some of the expense of, for example, police time. The County should also encourage these events to have races and tours that appeal to the less experienced cyclist. For example, in exchange for local governments underwriting part of the costs of a race, the event promoters could hold a bicycle repair and maintenance workshop for kids, short fun races for kids, and/or a tour of the route lead by experienced cyclists who could show less experienced riders how to safely negotiate County streets.

The City should continue to support the Family Cycling Festival by offering permits, financial assistance and staff time during the festival for the bicycle safety events and to staff informational booths.

Bicycle Facilities Map

Updating Modesto's bicycle facilities map will be the primary tool for showing bicyclists all of the designated bikeways in Modesto. The map should also show significant destinations, the location of bicycle parking facilities, and bicycle facilities in adjacent communities (e.g. Ceres). The location of bike shops may also be shown (advertising by bike shops on the map can help to offset the printing costs). The map should be distributed as widely as possible at locations such as city offices, libraries, schools, bike shops and other recreational retail outlets, and Modesto Junior College. The map should clearly show the type of facility (path, lane, or route), as well as include basic safety information.

BIKEWAY AND PATHWAY SECURITY

The Modesto Police Department should continue to perform enforcement of applicable laws on bike paths, depending on available resources and priorities. Enforcement of vehicle statutes relating to bicycle operation will be enforced on Class II and Class III bikeways as part of the department's normal operations.

RECOMMENDATIONS

Increase Safety and Security Through Proper Design and Maintenance

The following recommendations emphasize safety and security through design and maintenance efforts. These actions should be incorporated into the planning and development process of all bicycle facilities.

- Adhere to the established design, operation, and maintenance standards presented in this Non-Motorized Transportation Master Plan.
- Supplement these standards with the sound judgment of professional planners, public safety officials and engineers.
- Maintain adequate recording and response mechanisms for reported safety and maintenance problems.
- Provide regular police patrols to the extent needed.
- Promote measures to reduce bicycle theft such as a registration program, subsidized locks, and training for proper locking techniques.
- Thoroughly research the causes of each reported accident within the City of Modesto's non-motorized network. Respond to accident investigations with appropriate design or operation improvements.

MAINTENANCE

Modesto's Non-Motorized Transportation network needs regular maintenance. Typical tasks include repairing damaged and potholed roadway surfaces and clearing plant overgrowth. Bike lanes and bike routes should have regular sweeping to clear debris. Although these latter aspects are generally associated with routine roadway maintenance, special attention to bikeway safety and usability is important and can mean additional costs are incurred. The typical maintenance program for bicycle facilities is provided in **Table 7-1**.

RECOMMENDATIONS

Develop a Funding Source for Trail Maintenance

Funding for bicycle and trail facility maintenance can often be difficult to identify. Most regional and State funding sources earmark the funds for capital improvement, or the building of new facilities, not for ongoing maintenance costs. There are several methods of securing funding for maintenance outside of the use of General Fund money. Several cities have employed successful "Adopt-a-Trail" programs, the implementation of "recreational fees" on the purchase of recreational equipment in the city, or other fundraising activities. The funding could be used to develop a bicycle and pedestrian maintenance request system. Additional discussion of maintenance funding is provided in Chapter 8, Implementation.

Table 7-1
Maintenance Program for Bicycle Facilities

Item	Frequency
Sign replacement/repair	1-3 years
Trail pavement marking replacement	1-3 years
On-Street pavement marking replacement	1-3 years
Planted tree, shrub, & grass trimming/fertilization	5 months-1 year
Pavement sealing/potholes	5-15 years/30-40 years for concrete
Clean drainage system	Annual
Pavement sweeping	Monthly
Shoulder mowing and weed removal	Bi-Annual – Fall/Spring
Trash disposal	As needed, twice a week
Inspect bridge abutments and structures	After each storm
Graffiti removal	Weekly
Maintain furniture	1 year
Restroom cleaning/repair	Weekly
Pruning to maintain vertical clearance	1-4 years
Remove fallen trees	As needed (on trail only)
Weed control	Monthly
Maintain emergency telephones	1 year
Maintain irrigation lines/replace sprinklers	1 year
Irrigate/water plants	Weekly - as required during establishment growth period
Fencing	Monthly

MARKETING THE MASTER PLAN

The success of the Modesto Non-Motorized Transportation Master Plan depends largely on the community's acceptance and promotion of the Plan's contents. In addition, City departments and commissions should incorporate the policies, objectives, and spirit of the Master Plan into their respective projects and responsibilities. The following are steps that will help ensure that the Plan becomes a living document, helping shape Modesto's future.

- Distribute copies of the Plan to the Community and Economic Development, Engineering and Transportation, and Parks, Recreation and Neighborhoods Departments.
- Distribute copies of the Plan to members of the Planning Commission, Tuolumne River Regional Park Citizens Advisory Committee, and other appropriate citizen advisory groups.
- Ensure that Plan implementation involves cooperation among the Modesto Parks, Recreation and Neighborhoods Department, Engineering and Transportation Department, Stanislaus County, local school districts, private sponsors, the Stanislaus County Bicycle Club, and community groups.
- Provide copies of the Modesto Bicycle facilities map to schools, bicycle and recreational groups, transit agencies, Modesto Junior College, and bicycle shops in Modesto.

8. IMPLEMENTATION

This chapter identifies steps towards implementation of the proposed facilities and programs of this plan, the estimated costs for the proposed improvements and maintenance, strategies on funding and financing, and a guide for recommended maintenance program.

IMPLEMENTATION PROCESS

The steps between the network improvements and concepts identified in this Plan and the final completion of the improvements will vary from project to project, but typically include:

1. Adoption of the Modesto Non-Motorized Master Plan Update by the Modesto City Council (and incorporation into City's General Plan).
2. Preparation of a Feasibility Study involving a conceptual design (with consideration of possible alternatives and environmental issues) and cost estimate for individual projects.
3. Secure, as necessary, outside funding and any applicable environmental approvals.
4. Approval of the project by the local planning body (if applicable) and the City Council, including the commitment by the latter to provide for any unfunded portion of the cost.
5. Completion of final plans, specifications and estimates, advertising for bids, receipt of bids and award of contract(s).
6. Construction of Project.

Once a Non-Motorized transportation system has been identified, the greatest challenge is to identify the top projects that will offer the greatest benefit to bicyclists and pedestrians in the next five years. Aside from the criteria used in developing the system as a whole, selection of the high priority projects is based on (a) cost and construction feasibility given existing traffic, safety, and environmental constraints, (b) need and benefit, and (c) strength of the project as measured by specific funding criteria. Finally, it is important to remember that the bikeway system and the top projects are flexible concepts that serve as guidelines to those responsible for implementation. The system and segments themselves will change over time as a result of changing bicycling patterns and implementation constraints and opportunities.

SYSTEM CONSTRUCTION COST BREAKDOWN

A breakdown of cost estimates for construction of the proposed network provided by this plan is presented in Table 8-1 below. The total cost of the recommended projects is estimated to be about $54 million. It is important to note the two following assumptions about the cost estimates. First, all cost estimates are highly conceptual, since there is no feasibility or preliminary design completed, and second, the costs do not include the feasibility study costs.

All the projects are recommended to be implemented over the next two to twenty years, or as funding is available. The more expensive projects, such as the Class I facilities, may take longer to implement. In addition, many funding sources are highly competitive, and therefore impossible to determine exactly which projects will be funded by which funding sources. Timing of projects is also something difficult to pinpoint exactly, due to the dependence on competitive funding sources and, timing of roadway and development, and the overall economy.

The projects listed above may be funded through various sources. The funding section below outlines some of the local, regional, state and federal funding methods and resources for non-motorized transportation projects.

Table 8-1
Recommended Non-Motorized Transportation System Cost Estimates

NAME	START	END	PROPOSED CLASS	LENGTH (MI.)	Cost ($)
Class I					
9th	Morgan Rd	Coldwell Ave	I	4.00	$2,200,000
BNSF Line	Briggsmore	Hetch Hetchy	I	3.48	$1,914,000
Briggsmore Path/Canal Mid Lateral 3	Coffee	Held	I	3.42	$1,881,000
Carpenter	Maze	Whitmore	I	2.99	$1,644,500
Claus Rd	Orangeburg	Kiernan	I	3.25	$1,787,500
Claus Rd	Yosemite	Creekwood	I	0.80	$440,000
Dakota	Canal Mid Lateral 4	Salida Blvd	I	4.08	$2,244,000
Dry Creek	DCRP	TRRP	I	1.24	$682,000
Dale Rd	Pelandale	Kiernan	I	0.76	$418,000
Hetch Hetchy	Semallon	Coffee	I	2.99	$1,644,500
Kiernan	Sisk	Claus	I	8.53	$4,691,500
Maze	6th	Dakota	I	3.31	$1,820,500
MJC Connector	Kiernan	TRRP	I	5.40	$2,970,000
Pelandale	Sisk	McHenry	I	8.06	$4,433,000
Tuolumne River Park E	SR-99	Legion Park	I	1.07	$588,500
Tuolumne River Park W	SR-99	Paradise	I	4.24	$2,332,000
Virginia Railroad Trail	Keirnan	MJC Class I	I	4.62	$2,541,000
Canal Mid Lateral No 1	South Riverside	Santa Fe	I	2.72	$1,496,000
Canal Mid Lateral No 2	N. McClure	Church	I	2.34	$1,287,000
Canal Mid Lateral No 4	Dakota	SR-99	I	6.00	$3,300,000
Canal Mid Lateral No 5	Pauline	Maze	I	4.09	$2,249,500
Canal Mid Lateral No 6	Carver	Kiernan	I	3.27	$1,798,500
Canal Mid Lateral No 6	SR-99	Prescott	I	2.57	$1,413,500

NAME	START	END	PROPOSED CLASS	LENGTH (MI.)	Cost ($)
Canal Mid Lateral No 7	Finney	SR-99	I	3.34	$1,837,000
Canal Mid Lateral No 7	Standiford	Snyder	I	0.63	$346,500
Canal Mid Main	Claribel	Claus	I	1.36	$748,000
Canal Mid Lateral No 1	Vivian	9th Ave	I	4.59	$2,524,500
Class II					
9th St	S. Morton	9th Ave	II	1.30	$39,000
Aria	Hillglen	Sylvan	II	0.25	$7,500
Blue Gum	Carpenter	N. 9th St	II	2.58	$77,400
Caden	Kodiak	Hillglen	II	0.25	$7,500
Carpenter	Cummins	Maze	II	1.38	$41,400
California	Carpenter	Jefferson	II	1.18	$35,400
Coffee	Claratina	Claribel	II	0.76	$22,800
Coldwell/Woodland	Lone Palm	Tully	II	0.71	$21,300
College	Needham	MJC East	II	0.25	$7,500
Crows Landing	H Street	Whitmore	II	2.06	$61,800
Dakota	Maze	SR-99	II	4.08	$122,400
Dale Rd	Standiford	Kiernan	II	2.75	$82,500
Fine	Kee	Merle	II	0.97	$29,100
Floyd	Oakdale	Claus	II	1.98	$59,400
Garner	Finch	Yosemite	II	0.90	$27,000
H St	Scenic	Paradise	II	1.28	$38,400
Hatch	Dallas	Crows Landing	II	0.41	$12,300
Hillglen	Kodiak	Kee	II	1.81	$54,300
Kansas/Needham/Downey	Dakota	DCRP	II	4.95	$148,500
Kodiak	Hillglen	Fine	II	1.70	$51,000
La Force	Oakdale	Kodiak/Hillglen	II	0.11	$3,300
Lincoln Oak	Merle	Kodiak	II	1.92	$57,600
Litt	Kodiak	new road	II	0.94	$28,200
new road	Litt	Roselle	II	0.55	$16,500
Maid Mariane	Merle	Sharon	II	0.25	$7,500
Mc Reynolds	Hillglen	Sylvan	II	0.25	$7,500
Merle	Oakdale	Claus	II	1.98	$59,400
Millbrook/Belharbour	Lincoln Oak	Sylvan	II	1.87	$56,100
Morse	Kansas	Blue Gum	II	0.99	$29,700
Natchez	Merle	Millbrook	II	0.21	$6,300
Oakdale	Sylvan	Kiernan	II	1.50	$45,000
Oakdale	Briggsmore	Merle	II	0.25	$7,500
Orchard Park	Floyd	Kodiak	II	0.25	$7,500
Paradise	Vivian	Yosemite	II	2.61	$78,300
Prescott	Standiford	Snyder	II	0.60	$18,000
Roselle	Scenic	Kiernan	II	3.84	$115,200
Scenic	Coffee	Sonoma	II	1.49	$44,700

NAME	START	END	PROPOSED CLASS	LENGTH (MI.)	Cost ($)
Scenic	Wycliffe	Claus	II	0.51	$15,300
Sharon	Belharbour	Fine	II	0.40	$12,000
Shoemaker	Brink	Dakota	II	1.69	$50,700
Sylvan Ave	Oakdale	Claus	II	1.99	$59,700
Temescal	Kodiak	Floyd	II	0.25	$7,500
Tully	Coldwell	9th	II	0.34	$10,200
Tully	Pelandale	Kiernan	II	0.72	$21,600
Ustach Park	Lincoln Oak	Ustach Park	II	0.96	$28,800
Virginia	Morris	Needham	II	0.38	$11,400
Vivian	Paradise	SR-99	II	3.67	$110,100
Whitmore	Carpenter	SR-99	II	3.79	$113,700
Wood Sorrel	Sylvan	Hillglen	II	0.24	$7,200
Woodland	Carpenter	SR-99	II	0.32	$9,600
Class III					
Beard	Nathan	Yosemite	III	0.49	$2,450
Bluebird/Nightingale	Setrok	Dale	III	0.64	$3,200
Bowen	Earlmar	McHenry	III	1.54	$7,700
Buena Vista/Edgebrook	La Loma	Covena	III	0.67	$3,350
Burney	Downey	Jennie	III	0.55	$2,750
Capistrano/Pamplona	Yosemite	Dry Creek	III	0.62	$3,100
Carver	Princeton	Kiernan	III	4.02	$20,100
Celeste	Coffee	Oakdale	III	0.49	$2,450
Chapman	Pelandale	Kiernan	III	1.01	$5,050
Chapparal/Shaddox	Morse	Carpenter	III	1.27	$6,350
Claremont	Rumble	Sylvan	III	0.35	$1,750
Codding/Bruce/Jasmin	Norwegian	Floyd	III	0.42	$2,100
Codoni/Frazine	Finch	La Coste	III	2.15	$10,750
Conant	Sisk	Veneman	III	1.16	$5,800
Covena	Yosemite	DCRP	III	0.58	$2,900
Crater	Ustick	Dallas	III	0.57	$2,850
Creekwood	Yosemite	Norseman	III	1.24	$6,200
Dallas	Crater	Whitmore	III	1.10	$5,500
Doherty	Nathan	Lapham	III	0.48	$2,400
Dry Creek	Coffee	DCRP	III	0.72	$3,600
E Street	10th	12th	III	0.14	$700
Edgebrook/Oakbrook	Oakbrook	Riverside	III	0.67	$3,350
Emerald	California	Carpenter	III	1.91	$9,550
Encina	Riverside	Edgebrook	III	1.31	$6,550
Finch	Codoni	Mitchell	III	1.83	$9,150
Floyd	Oakdale	Rose	III	0.50	$2,500
Floyd	Keller	McHenry	III	1.31	$6,550
G St	Burney	1st Street	III	1.24	$6,200

NAME	START	END	PROPOSED CLASS	LENGTH (MI.)	Cost ($)
Gagos	Setrok	Vintage	III	0.31	$1,550
Glenbrook	E. Orangeburg	Woodbine	III	0.18	$900
Grecian	Imagine	Highlights	III	0.63	$3,150
H Street	Yosemite	Kimble	III	1.49	$7,450
Hahn	Rumble	Veneman	III	0.48	$2,400
Hammond	John	Rouse	III	0.49	$2,450
Harris	Rouse	Western	III	0.37	$1,850
Hashem/Carson Oak	Rumble	Mable	III	0.80	$4,000
Herndon/Morgan	River	Whitmore	III	1.73	$8,650
Houser/Western	Ohio	Roselawn	III	1.90	$9,500
Janna	Prescott	Mount Vernon	III	0.51	$2,550
La Loma	Miller	Yosemite	III	0.25	$1,250
Lapham	Tioga	S. Riverside	III	1.09	$5,450
Laramie	Sonoma	Lilian	III	0.22	$1,100
Las Palmas	Yosemite	Edgebrook	III	0.46	$2,300
Mable	Coffee	End of Mable	III	1.49	$7,450
Mariposa	Finch	Yosemite	III	0.99	$4,950
Marsala	Veneman	Snyder	III	0.50	$2,500
McClure	Poppypatch	Garst	III	0.53	$2,650
Miller/San Ignacio	La Loma	Capistrano	III	1.83	$9,150
MLK	Robertson	Elm	III	1.71	$8,550
Montclair	Carver	Tully	III	0.54	$2,700
Morton/Grand	Santa Rosa	11th Street	III	0.61	$3,050
Nathan	Doherty	Beard	III	0.42	$2,100
Norseman	Creekwood	Sutton Park	III	0.40	$2,000
Oakdale	Briggsmore	Merle	III	0.25	$1,250
Ohio	Robertson	California	III	1.09	$5,450
Orangeburg	Claus	Held	III	0.72	$3,600
Oregon/Santa Rosa	Tioga	Yosemite	III	1.16	$5,800
Panama	Houser	California	III	0.25	$1,250
Pembroke	Rumble	Sheldon	III	0.24	$1,200
Peppermint	Oakdale	Sonoma	III	0.50	$2,500
Poppypatch	Capistrano	McClure	III	0.68	$3,400
River/Zeff	SR-99	Central	III	2.41	$12,050
Riverside	Mitchell	DCRP	III	1.52	$7,600
Roselawn Sunset	Colorado	Sierra	III	2.39	$11,950
Rosemore	Maze	Blue Gum	III	1.00	$5,000
Rouse	Harris	Niece	III	1.11	$5,550
Royalton	Sheldon	Montclair	III	0.10	$500
Rue de Yoe	Burney	N. Morton	III	0.23	$1,150
Santa Cruz/Tioga/Hillside	Yosemite	Yosemite	III	2.54	$12,700
Sharon/Bud	Prescott	Conant	III	0.68	$3,400

NAME	START	END	PROPOSED CLASS	LENGTH (MI.)	Cost ($)
Shawnee	Sheldon	Mark Mead	III	0.75	$3,750
Sheldon	Prescott	Royalton	III	0.83	$4,150
Sisk	Pelandale	Bangs	III	0.38	$1,900
Snyder	Blue Bird	Tully	III	2.08	$10,400
Sonoma	Scenic	E. Orangeburg	III	0.75	$3,750
Spring Oak	Bridgewood	Mable	III	0.29	$1,450
Springcreek	Scenic	Woodbine	III	0.19	$950
Sullivan Park and Ride	Dale	Sisk	III	1.28	$6,400
Sunrise	Lucern	Floyd	III	2.93	$14,650
Sylvan Meadows/Bridgewood	Dragoo Park	Oakdale	III	1.59	$7,950
Tenaya/Santa Rita/Mono	Mitchell	Santa Rosa	III	2.09	$10,450
Union	Tully	Dragoo	III	1.53	$7,650
Ustick	Whitmore	Crater	III	0.82	$4,100
1st	H Street	G Street	III	0.08	$400
5th	Sierra	H Street	III	0.48	$2,400
7th	Paradise	D Street	III	0.68	$3,400
9th	Princeton	Needham	III	6.64	$33,200
10th	S. Morton	E Street	III	0.43	$2,150
11th	Needham	S. Morton	III	1.37	$6,850
11th	Needham	B Street	III	1.10	$5,500
12th	Needham	H Street	III	0.54	$2,700
14th	Needham	D Street	III	0.76	$3,800
Total Cost					**$53,691,950**

* Cost per mile: Class I = $550,000 / Class II = $30,000 / Class III = $5,000
** Canal "Start" and "End" noted as nearest street.

CONSTRUCTION FUNDING SOURCES

There are a variety of potential funding sources including local, state, regional, and federal funding programs that can be used to construct the proposed bicycle improvements. Most of the Federal, state, and regional programs are competitive and involve the completion of extensive applications with clear documentation of the project need, costs, and benefits. Local funding for bicycle projects typically come from Transportation Development Act (TDA) funding, which is prorated to each County based on the return of gasoline taxes. Many of the projects and programs would need to be funded either with TDA, general fund (staff time), and regional, State and Federal sources. The primary funding sources are described below, and listed in Table 8-2 at the end of this section.

FEDERAL FUNDING SOURCES

The primary federal source of surface transportation funding—including bicycle and pedestrian facilities—is SAFETEA-LU, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A

Legacy for Users. SAFETEA-LU is the fourth in a series of Federal transportation funding bills. The $286.5 billion SAFETEA-LU bill was passed in 2005 and authorizes Federal surface transportation programs for the five-year period between 2005 and 2009.

SAFETEA-LU funding is administered through the State (Caltrans and Resources Agency) and regional planning agencies. Most, but not all, of these funding programs are oriented toward transportation versus recreation, with an emphasis on reducing auto trips and providing inter-modal connections. Specific funding programs under SAFETEA-LU include:

Congestion Mitigation and Air Quality (CMAQ) — Funds projects that are likely to contribute to the attainment of national ambient air quality standards. Funds are available for projects and programs in areas that have been designated in non-attainment or maintenance for ozone, carbon monoxide or particulate matter. Since the Bay Area is in attainment of national air quality standards for all pollutants except ozone, future Bay Area eligibility for CMAQ allocations is currently being determined.

Recreational Trails Program — $370 million nationally through 2009 for non-motorized trail projects.

Safe Routes to School Program — A new program with $612 million nationally through 2009.

Transportation, Community and System Preservation Program — $270 million nationally over five years (2006-2011) reserved for transit oriented development, traffic calming and other projects that improve the efficiency of the transportation system, reduce the impact on the environment, and provide efficient access to jobs, services and trade centers.

Federal Lands Highway Funds — Federal Lands Highway funds may be used to build bicycle and pedestrian facilities in conjunction with roads and parkways at the discretion of the department charged with administration of the funds. The projects must be transportation-related and tied to a plan adopted by the State and MPO. Approximately $1 billion dollars are available nationally for Federal Lands Highway Projects through 2009.

STATEWIDE FUNDING SOURCES

The State of California uses both federal sources (such as the Recreational Trails Program) and its own budget to fund pedestrian projects and programs. In some cases, such as Safe Routes to School, Office of Traffic Safety, and Environmental Justice grants, project sponsors apply directly to the State for funding. In others, such as Bay Trail grants, sponsors apply to a regional agency.

Bicycle Transportation Account

The State Bicycle Transportation Account (BTA) is an annual statewide discretionary program that is available through the Caltrans Bicycle Facilities Unit for funding bicycle projects. Available as grants to local jurisdictions, the emphasis is on projects that benefit bicycling for commuting purposes. Due to the passage of AB1772 in the year 2000, the BTA had $7.2 million

available between 2000 and 2005. Following the year 2005, the fund dropped to $5 million per year. In funding cycle 2007/2008, there are $5 million in statewide BTA funds available. The local match must be a minimum of 10% of the total project cost.

Recreational Trails Program (RTP)

The Recreational Trails Program provides funds to states to develop and maintain recreational trails and trail-related facilities for both non-motorized and motorized recreational trail uses. Examples of trail uses include hiking, bicycling, in-line skating, equestrian use, and other non-motorized as well as motorized uses. In California, RTP funds are administered by the California State Parks Department. $3.3 million statewide was available in fiscal year 2006. Recreational Trails Program funds may be used for:

- Maintenance and restoration of existing trails;
- Purchase and lease of trail construction and maintenance equipment;
- Construction of new trails;
- Acquisition of easements or property for trails; and
- Operation of educational programs to promote safety and environmental protection related to trails (limited to five percent of a State's funds).

Land and Water Conservation Fund

The Land and Water Conservation Fund is a federal program that provides grants for planning and acquiring outdoor recreation areas and facilities, including trails. The Fund is administered by the California State Parks Department and has been reauthorized until 2015. Cities, counties and districts authorized to acquire, develop, operate and maintain park and recreation facilities are eligible to apply. Applicants must fund the entire project, and will be reimbursed for 50 percent of costs. Property acquired or developed under the program must be retained in perpetuity for public recreational use. The grant process for local agencies is competitive, and forty percent of grants are reserved for Northern California. In 2006, approximately $480,000 is available for projects in Northern California.

Safe Routes to School (SR2S)

In September 2004, with the passage of SB 1087 (Soto), the State extended Safe Routes to School legislation for three additional years. The bill is scheduled to sunset on January 1, 2008. This program is meant to improve the safety of walking and cycling to school and encourage students to walk and bicycle to school through identification of existing and new routes to school and construction of pedestrian and bicycle safety and traffic calming projects. Caltrans is currently evaluating California's SR2S funding, in light of the new federal SR2S Program. Recent SAFETEA-LU legislation, which requires each state's Department of Transportation to designate a SR2S Coordinator, also contains a SR2S program. As of this printing, whether or not these programs will be combined in California or will remain autonomous has not been determined. Therefore, the amount of funds available is unknown at this point.

Environmental Justice: Context Sensitive Planning Grants

The Caltrans-administered Environmental Justice: Context Sensitive Planning Grants Program funds planning activities that assist low-income, minority, and Native American communities in becoming active participants in transportation planning and project development. Grants are available to transit districts, cities, counties, and tribal governments. This grant is funded by the State Highway Account at $1.5 million annually state-wide. Grants are capped at $250,000.

Office of Traffic Safety (OTS) Grants

The California Office of Traffic Safety distributes federal funding apportioned to California under the National Highway Safety Act and SAFETEA-LU. Grants are used to establish new traffic safety programs, expand ongoing programs to address deficiencies in current programs. Bicycle and pedestrian safety are included in the list of traffic safety priority areas. Eligible grantees are: governmental agencies, state colleges and state universities, local city and county government agencies, school districts, fire departments, and public emergency services providers. Grant funding cannot replace existing program expenditures, nor can traffic safety funds be used for program maintenance, research, rehabilitation, or construction. Grants are awarded on a competitive basis, and priority is given to agencies with the greatest need. Evaluation criteria to assess need include: potential traffic safety impact, collision statistics and rankings, seriousness of problems, and performance on previous OTS grants. OTS expects to have $56 million in funding available statewide for FY 2006/07.

California Center for Physical Activity Grant Program

The California Center for Physical Activity runs several programs related to walking and offers small grants to public health departments. Grants are in the amount of $4,999 dollars or less and are offered intermittently.

LOCAL FUNDING SOURCES

TDA Article 3

Transportation Development Act (TDA) Article 3 funds are available for transit, bicycle and pedestrian projects in California. According to the Act, pedestrian and bicycle projects are allocated two percent of the revenue from a ¼ cent of the general state sales tax, which is dedicated to local transportation. These funds are collected by the State, returned to each county based on sales tax revenues, and typically apportioned to areas within the county based on population. Eligible pedestrian and bicycle projects include: construction and engineering for capital projects; maintenance of bikeways; bicycle safety education programs; and development of comprehensive bicycle or pedestrian facilities plans. A city or county is allowed to apply for funding for bicycle or pedestrian plans not more than once every five years. These funds may be used to meet local match requirements for federal funding sources.

NON-TRADITIONAL FUNDING SOURCES

Integration into Larger Projects

California State's "routine accommodation" policies require Caltrans to design, construct, operate, and maintain transportation facilities using best practices for pedestrians and bicyclists. Local jurisdictions can begin to expect that some portion of bicycle and pedestrian project costs, when they are built as part of larger transportation projects, will be covered in project construction

budgets. This applies to Caltrans and other transportation facilities, such as new transit stations and stops.

Community Development Block Grants

The CDBG program provides money for streetscape revitalization, which may be largely comprised of bicycle and pedestrian improvements. Federal Community Development Block Grant Grantees may use CDBG funds for activities that include (but are not limited to): acquiring real property; building public facilities and improvements, such as streets, sidewalks, and recreational facilities; and planning and administrative expenses, such as costs related to developing a consolidated Plan and managing CDBG funds. In some cities, CDBG funds have also been used to find crossing guards, called "Safe Walk to School Monitors." $526 million in CDBG funds were distributed statewide in 2004/05.

REQUIREMENTS FOR NEW DEVELOPMENT

Mello-Roos Community Facilities Districts and Assessment Districts

Bike paths and bike lanes can be funded as part of a local community facilities district, assessment or benefit district. This may be a specific district for funding bicycle facilities, or may be combined with larger parks and recreation or other public infrastructure districts.

New Construction

Future road widening and construction projects are a means of providing bicycle facilities. To ensure that roadway construction projects provide facilities where needed and feasible, it is important that an effective review process be in place so that new roads meet the standards and guidelines presented in the County's Bicycle Transportation Plan.

Impact Fees

Another potential local source of funding is developer impact fees, typically tied to trip generation rates and traffic impacts produced by a proposed project. A developer may reduce the number of trips (and hence impacts and cost) by paying for on- and off-site bikeway improvements that will encourage residents to bicycle rather than drive. Potential impact fees must be reasonably related to and roughly proportional to the impact that the fees are designed to address.

San Joaquin Valley Air Pollution Control District

The San Joaquin Valley Air Pollution Control District (SVAPCD) is in the process of reviving funding opportunities for the construction of bicycle facilities. The SVAPCD established an air quality mitigation fee program in 2006, which will help fund projects to improve air quality in the district including bicycle projects.

Table 7-5
Funding Sources

Acronyms:	Jurisdictions for City of Modesto, California:
AQMD - Air Quality Management District Caltrans - California Department of Transportation CMAQ - Congestion Management and Air Quality CTC - California Transportation Commission FHWA - Federal Highway Administration STANCOG – Stanislaus Council of Governments RTPA - Regional Transportation Planning Agency State DPR - California Department of Parks and Recreation (under the State Resources Agency) SAFETEA – Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2003	Caltrans - Caltrans District 10

Grant Source	Application Deadline	Agency	Program Funds Available	Matching Requirement	Eligible Applicants	Commute	Recreation	Safety/ Education	Comments/Contact Information
Federal Funding									
Federal Lands Highway Funds		FHWA	$1 billion dollars total nationwide through 2009	None	State	X	X	X	Project must appear in STIP. Contact California Division, FHWA http://www.fhwa.dot.gov/cadiv/directory.htm
Transportation and Community and System Preservation Program (TCSP)	Varies	FHWA	$61.25 million annually nationwide through 2008/09	20% local match	state, local, MPOs	--	--	--	Projects that improve system efficiency, reduce environmental impacts of transportation, etc. Contact Kenneth Petty TCSP Program Officer, Office of Planning phone: (202) 366-6654 http://www.fhwa.dot.gov/tcsp/pi_tcsp.htm
State Funding									
California Center for Physical Activity Grant Program	Ongoing	Department of Health Services	Up to $4,999 per grantee	None	Public Health Departments			X	For pedestrian encouragement programs Contact: Lisa Cirill, Acting Chief lcirill@dhs.ca.gov 916.552-9943
Environmental Enhancement and Mitigation Program	Currently suspended (as of mid-2006)	State Resources Agency, Caltrans	$10 million statewide	Not required but favored	local, state and federal government	X	X	X	Projects that mitigate environmental impacts of planned transportation projects; can include acquisition or development of roadside recreational facilities. Contact

Grant Source	Application Deadline	Agency	Program Funds Available	Matching Requirement	Eligible Applicants	Commute	Recreation	Safety/ Education	Comments/Contact Information
(EEMP)					non-profit agencies				Carolyn Dudley, State Resources Agency, (916) 653-5656
Environmental Justice Grants: Context Sensitive Planning	October 14	Caltrans	$1.5 million statewide	10% local	MPA, RPTA, city, county, tribal govmts, transit districts	X	X	X	Funds activities that include low-income and minority communities in transportation planning and project development. Contact Norman Dong at norman_dong@dot.ca.gov or (916) 651-6889.
Land and Water Conservation Fund (LCWF)	May 1	California DPR	$480,000 for Northern California (2006)	50% match	Cities, counties, park districts		X		Recreational trails are eligible for funding. Applicants must fund the entire project, and will be reimbursed for 50% of costs.
Office of Traffic Safety Grants	Jan. 31	Office of Traffic Safety	$56 million statewide (FY 2006/07)	None	Governmental agencies, state colleges, and state universities, local city and county government agencies, school districts, fire depts, and public emergency services providers			X	Grants are used to mitigate traffic safety program deficiencies, expand ongoing activity, or develop a new program. Grant funding cannot replace existing program expenditures, nor can traffic safety funds be used for program maintenance, research, rehabilitation, or construction. Contact OTS Regional Coordinator Lisa Dixon at, (916) 262-0978 or ldixon@ots.ca.gov
Recreational Trails Program (RTP)	Oct. 1	State DPR	$3.3 million statewide (FY 2006)	20% match	jurisdictions special districts, non profits with mngmt responsibil-ities over the land		X		For recreational trails to benefit bicyclists, pedestrians, and other users; contact State Dept. of Parks & Rec. , Statewide Trails Coordinator, (916) 653-8803
Safe Routes to School (AB 1475/SB1087)	May 31	Caltrans	Statewide amount unclear as of mid-2006	11.5% min.	city, county	X	X	X	Primarily construction program to enhance safety of pedestrian and bicycle facilities. Contact. Caltrans District 10, (209) 948-7543

Grant Source	Application Deadline	Agency	Program Funds Available	Matching Requirement	Eligible Applicants	Commute	Recreation	Safety/ Education	Comments/Contact Information
Local Funding									
Transportation Development Act (TDA) Article 3	January	STANCOG	-	--	city, county	X		X	Allocated by STANCOG
Nontraditional Sources									
Community Development Block Grants	Varies	HUD	$526 million statewide (2004/05)	None, but may be used as evaluation criteria	Public entities and 501(c)(3) non-profits and tax-exempt faith-based religious orgs				Primarily for community revitalization, but may be used to fund streetscape improvements, to eliminate slum and blight in low- and moderate-income areas.
Mello-Roos Community Facilities Act	None	Various Public Agencies	Varies	None		X	X	X	Primarily used to fund public services such as libraries and fire depts., but may fund pedestrian infrastructure.

SYSTEM MAINTENANCE COSTS

Many of Modesto's bicycling and walking paths need maintenance attention, such as fixing broken asphalt and clearing plant overgrowth. Bike lanes need regular sweeping to clear debris. The total annual maintenance cost of the primary non-motorized system is estimated to be about $925,000 per year when it is fully implemented. Class I bike path and sidewalk maintenance costs are based on $8,500 per mile, which covers labor, supplies, and amortized equipment costs for weekly trash removal, monthly sweeping, and bi-annual resurfacing and repair patrols. Other maintenance costs include bike lane line and crosswalk restriping, sweeping debris, and tuning signals for bicycle and pedestrian sensitivity. Although these latter aspects are generally associated with routine roadway maintenance, special attention to bikeway and walkway safety and usability is important and can mean additional costs are incurred. Table 8-3 provides cost estimates for the operation and maintenance of the recommended bicycle programs and the complete recommended bikeway network.

Maintenance access on the Class I bike paths may be achieved using standard City pickup trucks on the pathways. Sections with narrow widths or other clearance restrictions should be clearly marked. Class I bike path maintenance includes cleaning, resurfacing and restriping the asphalt path, repairs to crossings, cleaning drainage systems, trash removal, and landscaping. Underbrush and weed abatement should be performed once in the late spring and again in mid-summer.

Table 8-3
Operations and Maintenance Cost Estimates

Facility/Program	Unit Cost ($)	Unit Description	Units	Cost ($)	Notes
Class I Maintenance	8,500	Miles/Year	93.2	792,200	See Table 7-1
Class II Maintenance	2,000	Miles/Year	66.4	132,800	Repainting lane stripes and stencils, sign replacement as needed
Bicycle Education Safety Grants	10,000	Year	10	100,000	Safety programs taught in 3rd/4th grades
Bicycle Education Safety Materials	5,000	Every 5 years	4	20,000	Updated safety materials
Safe Routes to School Program	5,000	Year	10	50,000	Safety Coordination
Bike Fairs/Races	2,500	Year	10	25,000	Coordination
Employer Incentives	2,500	Year	10	25,000	Coordination
Bike-to-Work Days	2,500	Year	10	25,000	Coordination

Note: Costs incurred for maintenance of Class III facilities would be for sign replacement as needed (usually 3 – 5 years).

MAINTENANCE FUNDING

There are two general categories of recommended alternative, or non-general fund-based, methods for generating funds to cover regular trail maintenance costs. A brief description and examples of different methods are provided below. It is recommended that each method be carefully considered in terms of viability, including the necessary staff resources that may be required, as well as the potential base of public and private support. In addition, it is likely that more than one strategy will be necessary to adequately fund the trail maintenance program.

TAX AND FEE STRATEGIES

The first category of programs is fee or tax-based strategies that can raise the most revenue but also potentially be more politically difficult to implement. These revenue generating methods may include assessing a citywide tax or designating a local community facilities district tax or benefit assessment district fee.

Community Facilities Districts

Community Facilities Districts (CFDs) are mechanisms by which a specified district of property owners may vote to assess themselves a fee for the purpose of financing maintenance of open space, street medians, right-of-way, non-motorized facilities, street lighting, security, flood control and drainage. CFDs are usually implemented as part of new subdivision development but may also be organized by neighborhood groups or property owner associations.

Developer Impact Fees

Developer Impact Fees may be assessed on developers as part of development permits and/or impact mitigation requirements. The onetime impact fees are onetime fees that may be imposed on development activities for public goods and services associated with the development project, but provided for by the developer. The construction or improvement of water and sewer lines, streets and bridges, and parks and recreational facilities are some examples of typical projects funded through impact fees. In Modesto, the City may designate impact fees for new developments to cover costs of adjacent trail facilities.1

Sales Tax

Sales taxes must be approved by a 2/3 vote and can be earmarked for specific projects. Besides covering all general retail sales, sales taxes can also be imposed on purchases of specific items such as gasoline, motor vehicles, alcohol and tobacco. Sales taxes are attractive to local communities for at least two reasons: they are relatively easy to collect, and, although they fluctuate with the economy, they provide a constant revenue stream ideal for covering regular maintenance costs.

VOLUNTEER AND DONATION PROGRAMS

The second category of sources for trail maintenance funding covers the broad range of volunteer and donation strategies. These range from Adopt-a-Trail programs to special events geared towards fundraising.

[1] http://www.tpl.org/tier3_cdl.cfm?content_item_id=1061&folder_id=825

Adopt-a-Trail

Adopt-A-Trail programs vary in structure and goals but are primarily geared towards maintenance funding and are volunteer and donor-based. The Salida, Colorado Trail System's "Adopt-a-Trail" program, whose purpose has been both maintenance and beautification, has been extremely successful, to the extent that the nine original maintenance sections have been subdivided in order to accommodate all those who want to participate. Volunteers included the Boy Scouts, an agency for the developmentally handicapped, two businesses, a church, a bank, and the Cystic Fibrosis Association. The City of Modesto is already considering an adopt-a-trail program to acquire funding for portions of the Virginia Corridor Trail.

Special Events

Another volunteer and donation-based method includes hosting special events to draw charitable support from location businesses. Special events may include Bike to Work days, auctions and raffles, or other such events that may be held once or twice a year. In the Bay Area, these types of events are often organized by local bicycling or recreational groups in partnerships with city governments and rely on charitable sponsorship by businesses providing refreshments and equipments. Not only do these events raise money through auctions and raffles, but they also serve as an opportunity to encourage more citizens to enjoy bicycling or other alternative modes of transportation and to provide educational information on safety.

Volunteer Services

Volunteer organizations can work in partnership with the local government to maintain portions of trail systems. In California, the California Conservation Corps (CCC) can be utilized as a low-cost source of labor for maintaining trails. The CCC provides meaningful work and educational opportunities to assist young men and women by working together to protect and enhance California's environment, human resources and communities. The program is organized to provide corps members and services depending upon the project requirements. A crew usually consists of 10 to 15 young men and women; a staff supervisor who directs the crew; a vehicle, and basic tools.

In some cases, local recreational groups can help to maintain the trail, using a portion of membership dues to pay for volunteer trail maintenance activities. Other examples of volunteer and donor-based funding initiatives may include the creation of an annual award that recognizes outstanding local businesses or corporations that donate time and/or money in the maintenance of trails. The award may be an incentive for businesses to contribute. Placing corporate logos on signage and other amenities donated by businesses may also be an incentive for them to contribute.

Bicycle and other recreational equipment shops can also get involved in recruiting volunteers for trail maintenance. One bike shop in Colorado encourages trail volunteers by putting the name of a volunteer in a jar each day that person volunteers. At the end of the year, they draw a name from the jar and give them a mountain bike.

Small Business and Corporate Giving

Trail maintenance funding programs are considered under the heading of small business and corporate gifts. These programs are based on corporate sponsorship that may require promotion of the donating company by, for example, placing the corporate logos on trail signs. Other examples of small business donations and corporate giving include the provision of maintenance supplies,

volunteered labor provided by a firm, and donations to be included in raffle and auction events. One example of creative corporate giving occurred in Leadville, Colorado, where a local microbrewery created the Mineral Belt Pale Ale beer named after the local Mineral Belt recreational trail. A portion of the sales of the Pale Ale goes towards maintenance costs for the trail.

Recreational Fees and Sales

User fees may be considered the most direct form of revenue generation for trail maintenance, because the users of the facility are required to pay an annual fee to in order to use trail. However, unless the facility is heavily used, user fees are not likely to be viable in Modesto for at least three reasons. First, the trails in Modesto will likely be used mostly by commuters and occasional recreational users that will not add up to a number significant for fundraising. Second, fees may dissuade potential trail users from using the facility, conflicting with the City's goal of encouraging more riders. And third, the enforcement measures necessary to ensure user-permit compliance would impose an additional cost on the city.

Other Fundraising Examples

The following additional trail maintenance fundraising examples were provided by the American Trails national organization.[2]

- In Durango, Colorado, the Animas River Trail was supported by part of a 1/2 cent sales tax increase. City voters approved the tax to fund a new recreation center as well as the trail and greenway rehabilitation along the river.
- The Carolina Heartlands Rail-Trail received help from the North Carolina Corrections Department. Between 20 and 90 inmates a day worked on clearing trees, brush, and trash from the right-of-way. The young crews, mostly first-time offenders in a bootcamp-style program, tackled the 12.5 miles between Wadesboro and McFarlan.
- Bike suspension maker RockShox provides many $250 grants for volunteer trail projects. One example is the Discovery Program of Orange, VA, which will use the funds to construct a beginner mountain bike trail, renovate a section of existing trail, and conduct a trail study that will provide recommendations to local land managers. Participants include Prospect Heights Middle School and the Walnut Creek Park Trail Volunteers.
- Trails4All in Orange County, CA, has started a program to raise funds to support volunteer trail projects. Stores sell the "EnviroDollar Coupons" and some stores also match donations. Participating stores are listed in the Trails4All newsletter and their employees can win raffle items for supporting the program. Trails4All also helps stores set up a "Trails Advocacy Department" with trail maps, sign samples, rules-of-the-trail, etc.
- Cyclists can sponsor a mile of the Great Divide Mountain Bike Route from Canada to Mexico. The Trailblazer Fund of Adventure Cycling is raising funds for trail development at $100 a mile.
- "Gift catalogues" are one way to publicize the many ways that trail projects need money. Gift catalogues have been used by at least three trail organizations: the Eagle County Trail System and the Cache La Poudre River Trail in Colorado, and the Wood River Trails in

[2] http://www.americantrails.org/resources/funding/TipsFund.html

Idaho. Contributors can purchase drinking fountains, interpretive signs, trees, wildflowers, or give to the endowment fund. You can also buy a foot of paved trail for $100 or a mile of parallel equestrian trail for $5,000. Those who would like to make a bigger impact can also restore an old railroad trestle for $30,000 or build a serious missing link of trail for $75,000.

- Rail trails may end up with some saleable materials to finance construction and maintenance. The Old Creamery Trail between Vinton and Dysart, Iowa, offered railroad ties for landscaping for a "reasonable donation" to the trail fund.
- In Colorado's San Luis Valley, the Juvenile Restitution Program has become a key source of labor for trail projects. Mountain Trails Youth Ranch supervises the young people, who have committed crimes and are required to earn money owed for damages. Several community agencies and the State Off-Highway Vehicle Program combine to support the program.
- Some bicycle shops in the Ketchum/Sun Valley, Idaho area organized a system which they liken to "self-taxation." The dealers agreed that each would donate five dollars for every bicycle sold, and 25¢ for every rental of a bicycle or in-line skate. The money went to either the USFS trails, or to a paved bike path system which runs throughout the resort area -- with the customer making the choice. The dealer program has now operated for three years (only during the three months of summer when cash flow is high) and has raised about $3,000 each year.

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APPENDIX A: BIKEWAY PLANNING AND DESIGN

This chapter provides basic bikeway planning and design requirements and recommendations for use in developing the Modesto bikeway system and support facilities.

BIKEWAY CLASSIFICATION DESCRIPTIONS

According to Caltrans, the term "bikeway" encompasses all facilities that provide primarily for bicycle travel. Caltrans has defined three types of bikeways in Chapter 1000 of the Highway Design Manual: Class I, Class II, and Class III. Descriptions and general design guidelines are presented below. The sources used for these design recommendations were Caltrans' Highway Design Manual and AASHTO's Guide for the Development of Bicycle Facilities. **Figure A-1** provides an illustration of the three types of bicycle facilities.

CLASS I BIKEWAY

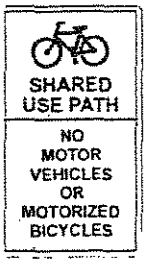
Typically called a "bike path" or "shared use path," a Class I bikeway provides bicycle travel on a paved right-of-way completely separated from any street or highway. The recommended width of a shared use path is dependent upon anticipated usage:

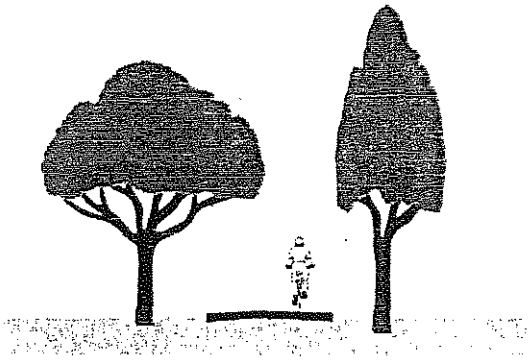
- 8' (2.4 m) is the minimum width for Class I facilities
- 8' (2.4 m) may be used for short neighborhood connector paths (generally less than one mile in length) due to low anticipated volumes of use
- 10' (3.0 m) is the recommended minimum width for a typical two-way bicycle path
- 12' (3.6 m) is the preferred minimum width if more than 300 users per peak hour are anticipated, and/or if there is heavy mixed bicycle and pedestrian use

A minimum 2' (0.6 m) wide graded area must be provided adjacent to the path to provide clearance from trees, poles, walls, guardrails, etc. On facilities with expected heavy use, a yellow centerline stripe is recommended to separate travel in opposite directions. **Figure A-2** illustrates a typical cross-section of a Class I multi-use path.

Shared Use Path – Class I

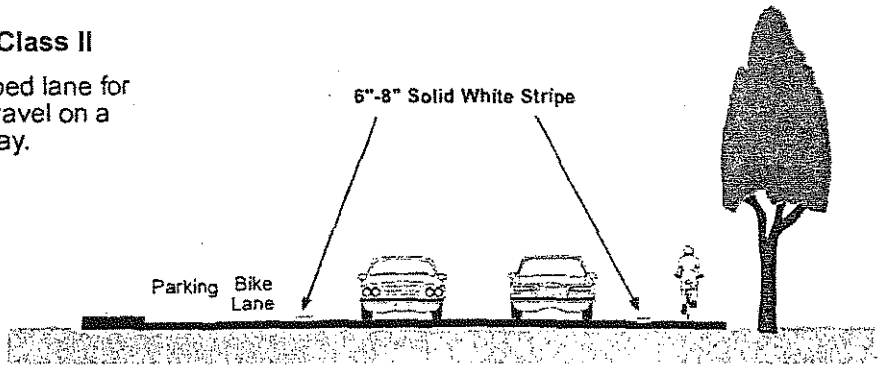
Provides a completely separated right of way for the exclusive use of bicycles and pedestrians with crossflow minimized.





Bike Lane – Class II

Provides a striped lane for one-way bike travel on a street or highway.



Bike Route – Class III
Signed Shared Roadway

Provides for shared use with pedestrian or motor vehicle traffic, typically on lower volume roadways.

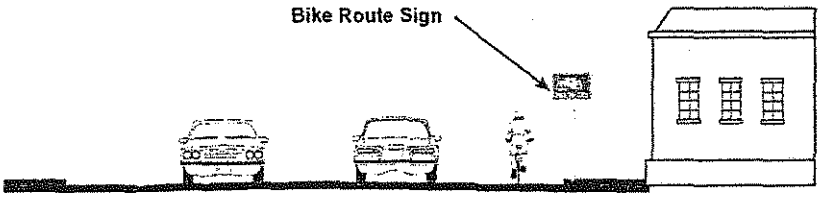


FIGURE A-1 Bicycle Facility Types

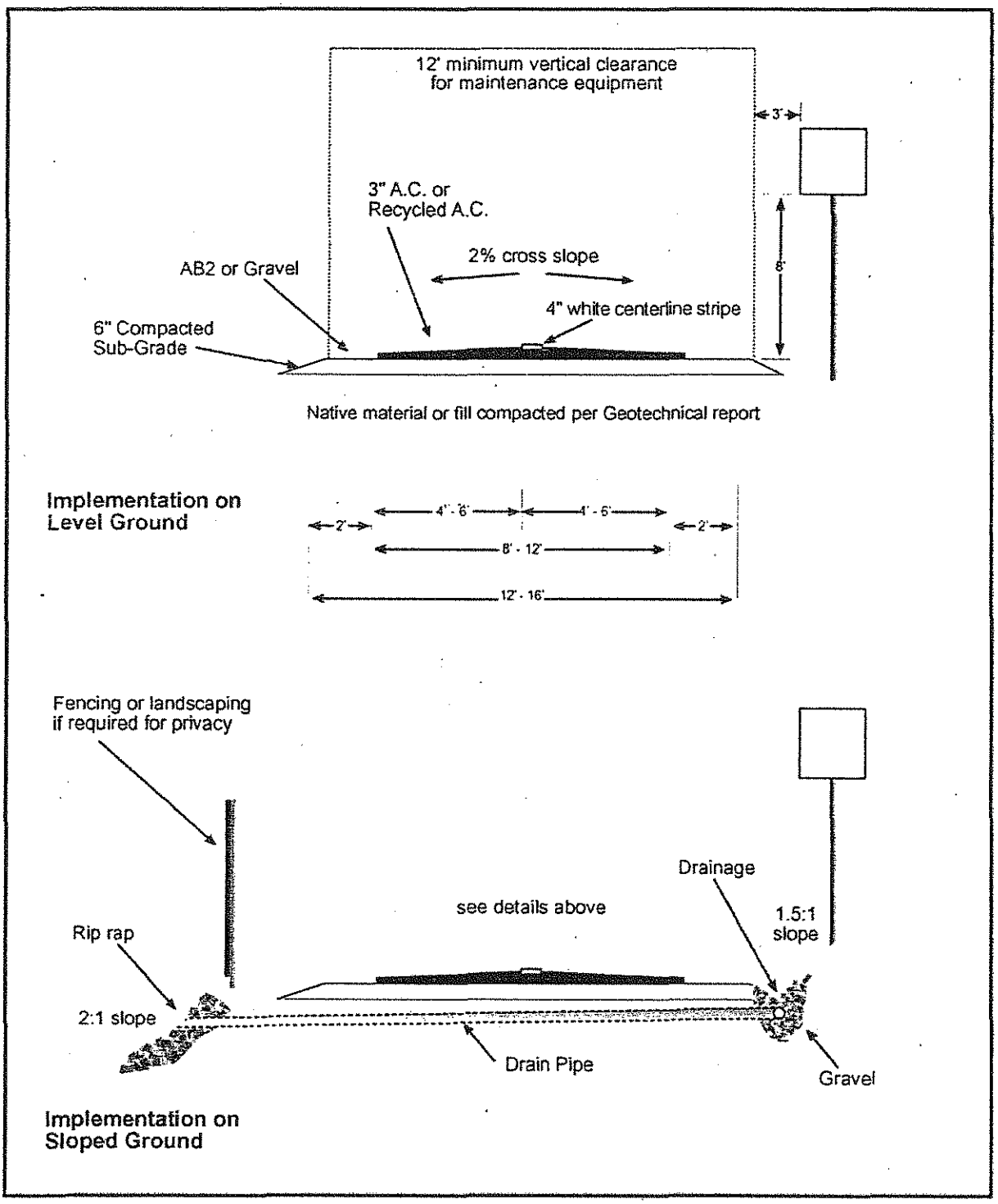


FIGURE A-2 Class I Facility Cross-Section

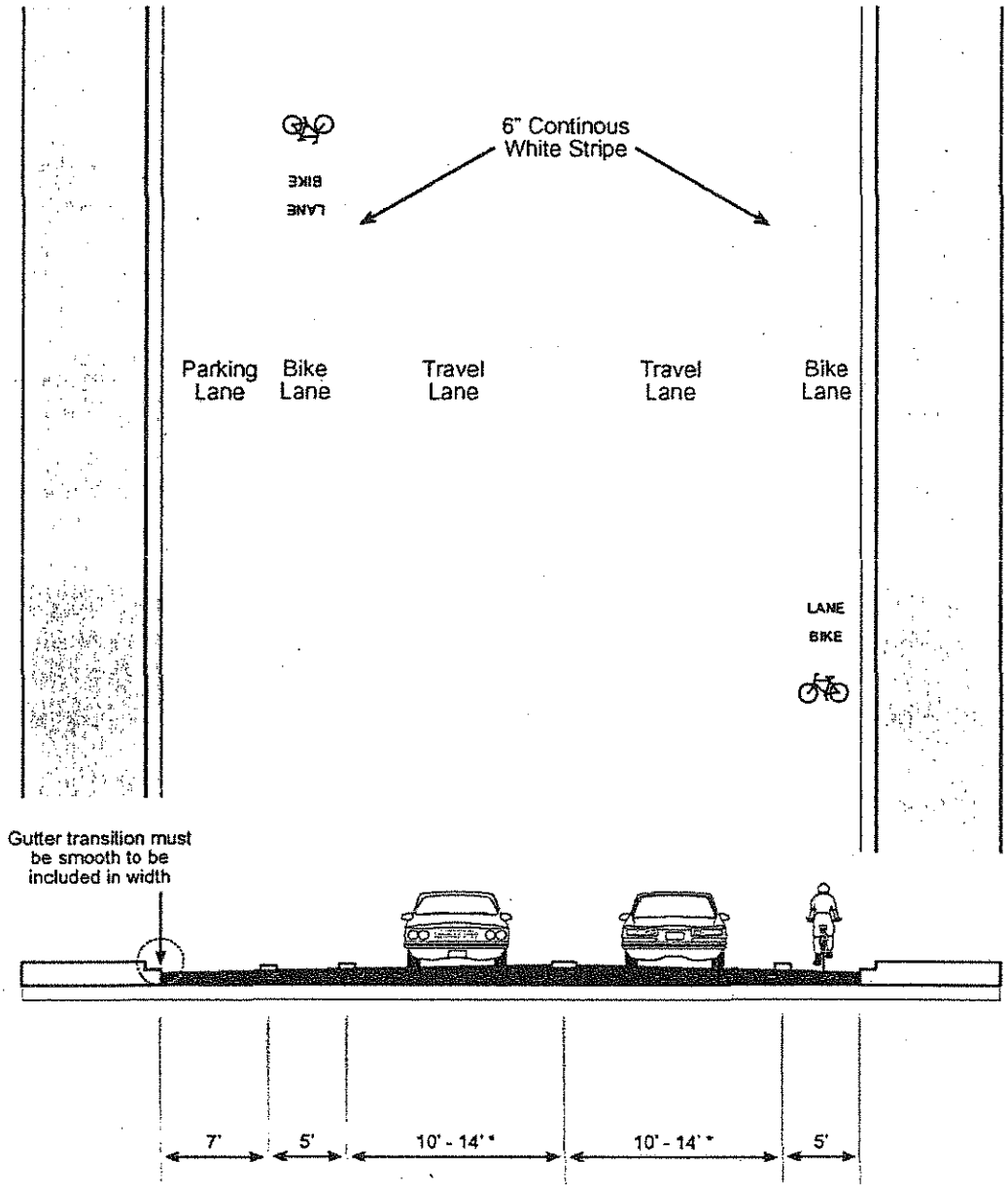
ADDITIONAL DESIGN RECOMMENDATIONS:

1. Shared use trails and unpaved facilities that serve primarily a recreation rather than a transportation function and will not be funded with federal transportation dollars may not need to be designed to Caltrans standards. However, state and national guidelines have been created with user safety in mind and should be followed as appropriate. Wherever any trail facility intersects with a street, roadway, or railway, standard traffic controls should always be used.
2. Class I bike path crossings of roadways require preliminary design review. Generally speaking, bike paths that cross roadways with average daily trips (ADTs) over 20,000 vehicles will require signalization or grade separation.
3. Landscaping should generally be low water consuming native vegetation and should have the least amount of debris.
4. Lighting should be provided where commuters will use the bike path in the evenings.
5. Barriers at pathway entrances should be clearly marked with reflectors and be ADA accessible (minimum five feet clearance).
6. Bike path construction should take into account impacts of maintenance and emergency vehicles on shoulders and vertical and structural requirements. Paths should be constructed with adequate sub grade compaction to minimize cracking and sinking.
7. All structures should be designed to accommodate appropriate loadings. The width of structures should be the same as the approaching trail width, plus minimum two-foot wide clear areas.
8. Where feasible, provide two-foot wide unpaved shoulders for pedestrians/runners, or a separate tread way.
9. Direct pedestrians to the right side of pathway with signing and/or stenciling.
10. Provide adequate trailhead parking and other facilities such as restrooms and drinking fountains at appropriate locations.

CLASS II BIKEWAY

Often referred to as a "bike lane," a Class II bikeway provides a striped and stenciled lane for one-way travel on either side of a street or highway. **Figure A-3** shows a typical Class II cross-section. To provide bike lanes along corridors where insufficient space is currently available, extra room can be provided by removing a traffic lane, narrowing traffic lanes, or prohibiting parking. The width of the bike lanes vary according to parking and street conditions:

- 4' (1.2 m) minimum if no gutter exists, measured from edge of pavement
- 5' (1.5 m) minimum with normal gutter, measured from curb face; or 3' (0.9 m) measured from the gutter pan seam
- 5' (1.5 m) minimum when parking stalls are marked
- 11' (3.3 m) minimum for a shared bike/parking lane where parking is permitted but not marked on streets without curbs; or 12' (3.6 m) for a shared lane adjacent to a curb face



*** Curb Lane:**
10' Under 2000 ADT
12' over 2000 ADT (under 35 mph)
14' over 20,000 ADT (over 35 mph)

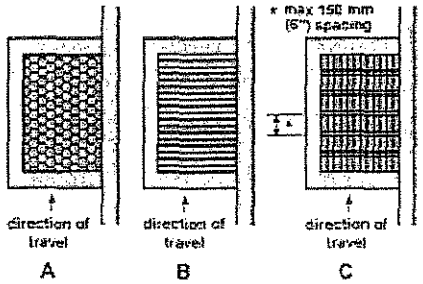
FIGURE A-3 Class II Facility Cross-Section

ADDITIONAL DESIGN RECOMMENDATIONS:

1. Whenever possible, the Department of Public Works should recommend that wider bike lanes beyond the minimum standard be installed.
2. Intersection and interchange treatment – Caltrans provides recommended intersection treatments in Chapter 1000 including bike lane "pockets" and signal loop detectors. The Department of Public Works should develop a protocol for the application of these recommendations, so that improvements can be funded and made as part of regular improvement projects.
3. Signal loop detectors, which sense bicycles, should be considered for all arterial/arterial, arterial/collector, and collector/collector intersections. A stencil of a bicycle and the words "Bicycle Loop" should identify the location of the detectors.
4. When loop detectors are installed, traffic signalization should be set to accommodate bicycle speeds.
5. Bicycle-sensitive loop detectors are preferred over a signalized button specifically designed for bicyclists (see discussion of loop detectors, below).
6. Bike lane pockets (min. 4' wide) between right turn lanes and through lanes should be provided wherever available width allows, and right turn volumes exceed 150 motor vehicles/hour.
7. Where bottlenecks preclude continuous bike lanes, they should be linked with Class III route treatments.
8. A bike lane should be delineated from motor vehicle travel lanes with a solid 6" white line, per MUTCD. Along major arterials, wider white lines, double white lines, or a painted buffer zone may be used to further delineate the bike lane from motor vehicle travel lanes.
9. Word and symbol pavement stencils should be used to identify bicycle lanes, as per Caltrans and MUTCD specifications.

Installing bike lanes may require more attention to continuous maintenance issues. Bike lanes tend to collect debris as vehicles disperse gravel, trash, and glass fragments from traffic lanes to the edges of the roadway. Striping and stenciling will need periodic replacing.

Poorly designed or placed drainage grates can often hazardous to bicyclists. Drainage grates with large slits can catch bicycle tires. Poorly placed drainage grates may also be hazardous, and can cause bicyclists to veer into the auto travel lane.



Examples of bicycle friendly drainage grates.

CLASS III BIKEWAY

Generally referred to as a "bike route," a Class III bikeway provides routes through areas not served by Class I or II facilities or to connect discontinuous segments of a bikeway.

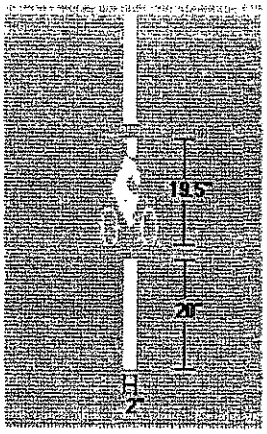
Class III facilities can be shared with either motorists on roadways or pedestrians on a sidewalk (not advisable) and is identified only by signing. There are no recommended minimum widths for Class III facilities, but when encouraging bicyclists to travel along selected routes, traffic speed and volume, parking, traffic control devices, and surface quality should be acceptable for bicycle travel. A wide outside traffic lane (14') is preferable to enable cars to safely pass bicyclists without crossing the centerline.

INTERSECTION CONSIDERATIONS

Intersections represent one of the primary collision points for bicyclists. Generally, the larger the intersection, the more difficult it is for bicyclists to cross. Oncoming vehicles from multiple directions and increased turning movements make it difficult for motorists to see non-motorized travelers.

Most intersections do not provide a designated place for bicyclists. Bike lanes and pavement markings often end before intersections, causing confusion for bicyclists. Loop and other detectors, such as video, often do not detect bicycles.

Bicyclists wanting to make left turns can face quite a challenge. Bicyclists must either choose to behave like motorists by crossing travel lanes and seeking refuge in a left-turn lane, or they act as pedestrians and dismount their bikes, push the pedestrian walk button located on the sidewalk, and then cross the street in the crosswalk. Bicyclists traveling straight also have difficulty maneuvering from the far right lane, across a right turn lane, to a through lane of travel. Furthermore, motorists often do not know which bicyclist movement to expect.



This bicycle loop detector stencil shows bicyclists where to position their bicycle to activate the signal

Changing how intersections operate also can help make them more "friendly" to bicyclists. Improved signal timings for bicyclists, bicycle-activated loop detectors, and camera detection make it easier and safer for cyclists to cross intersections.

Figure A-4 is an example of an intersection that provides bike lanes at critical locations at intersections.

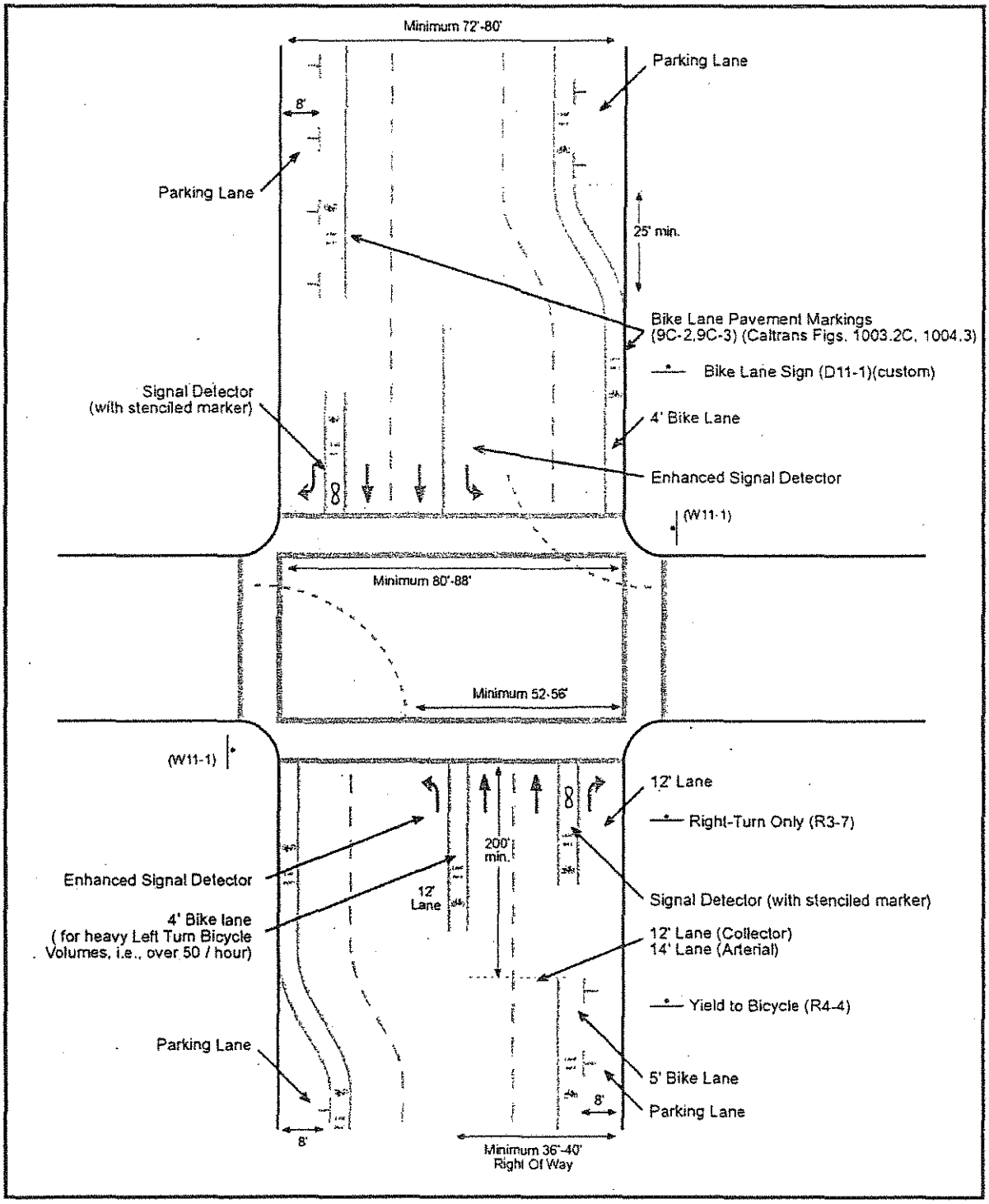
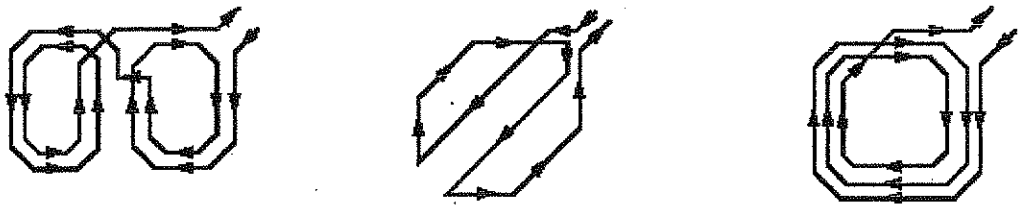


FIGURE A-4 Bike Lanes at Intersection

BICYCLE LOOP DETECTORS

The purpose of bicycle loops is to detect bicyclists waiting at intersections, and to give cyclists extra green time (e.g. five seconds) before the light turns yellow to make it through the light. Current and future loops that are sensitive enough to detect bicycles should have pavement markings to instruct cyclists how to trip them. Common loop detector types are shown in **Figure A-5** below:

Figure A-5
Common Loop Detector Types

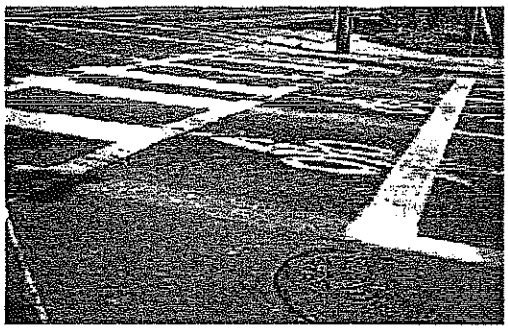


Quadrupole Loop	Diagonal Quadrupole Loop	Standard Loop
Detects most strongly in center	Sensitive over whole area	Detects most strongly over wires
Sharp cut-off sensitivity	Sharp cut-off sensitivity	Gradual cut-off
Used in bike lanes	Used in shared lanes	Used for advanced detection

From: Implementing Bicycle Improvements at the Local Level, FHWA, 1998, page 70.

BIKE BOX

A bike box is a relatively new innovation to improve turning movements for bicyclists without requiring cyclists to merge into traffic to reach the turn lane or use crosswalks as a pedestrian. Bike boxes are essentially extensions of bike lanes at intersections that allow bicyclists to position themselves ahead of motor vehicles stopped at a traffic signal. The bike box is formed by pulling the stop line for vehicles back from the intersection, and adding a stop line for bicyclists immediately behind the crosswalk. When a traffic signal is red, a bicyclist can move into this "box" ahead of the cars to make himself more visible, or to move into a more comfortable position to make a turn. Bike boxes have been used in Cambridge, MA; Eugene, OR; and European cities.



Bike box in Eugene, OR. (Photo: Evaluation of an Innovative Application of the Bike Box, FHWA, 2000.)

UNDERCROSSINGS

Figure A-6 illustrates basic design standards for undercrossings.

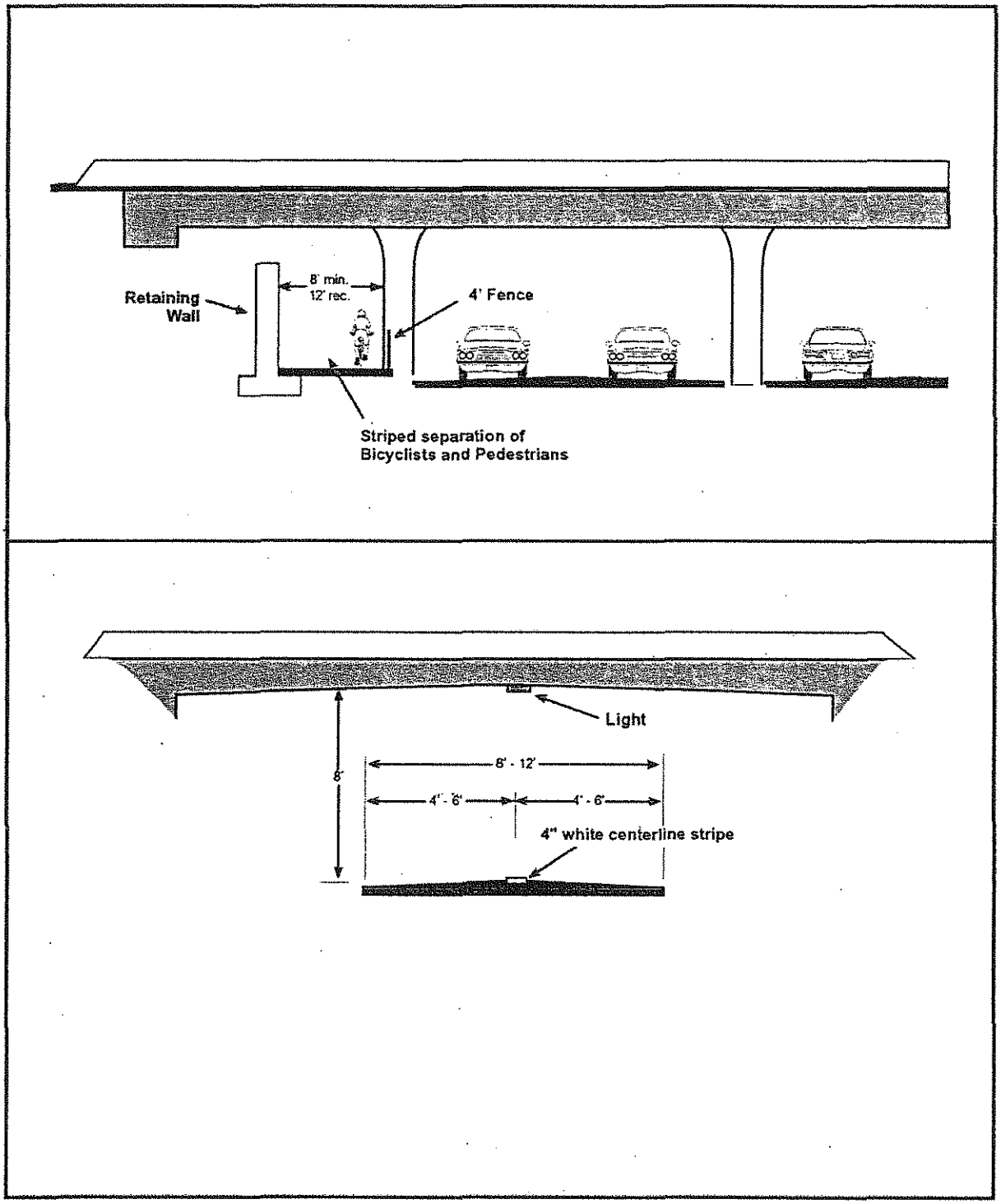
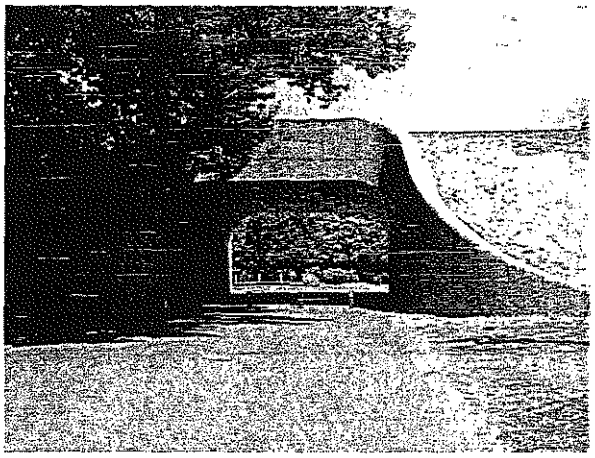


FIGURE A-6 Undercrossing Design Guidelines

Some design considerations with undercrossings:

- Must have adequate lighting and sight distance for safety
- Must have adequate over-head clearance of at least 3.1 m (10 ft)
- Tunnels should be a *minimum* 4.3 m (14 ft) for several users to pass one another safely; a 3.0 m x 6.0 m (10 ft x 20 ft) arch is the recommended standard
- "Channeling" with fences and walls into the tunnel should be avoided for safety reasons
- May require drainage if the sag point is lower than the surrounding terrain



This undercrossing provides ample vertical and horizontal clearance and a clear sight line through the structure, improving the feeling of safety.

SIGNAGE

Implementing a well-planned and attractive system of signing can greatly enhance bikeway facilities by signaling their presence and location to both motorists and existing and potential bicycle users. By leading people to city bikeways and the safe and efficient transportation they offer to local residents and visitors to the county, effective signage can encourage more people to bicycle.

STANDARD SIGNAGE

All bikeway signing should conform to the signing identified in the Caltrans Traffic Manual and/or the Manual on Uniform Traffic Control Devices (MUTCD). These documents give specific information on the type and location of signing for the primary bike system. A list of bikeway signs from Caltrans and the MUTCD is shown in **Table A-1**.

Figures A-7, A-8, A-9, and A-10 illustrate a number of examples of bikeway signage.

In general, the sizes of signs used on bicycle paths are smaller than those used on roadways. Table 9B-1 of the MUTCD lists minimum sign sizes for both path and roadway bicycle facilities. If the sign applies to drivers and bicyclists, then the larger size used for conventional roads shall apply.

Table A-1
Recommended Signing and Marking

Item	Location	Color	Caltrans Designation	MUTCD Designation
No Motor Vehicles	Entrances to trail	B on W	R44A	R5-3
Use Ped Signal / Yield to Peds	At crosswalks; where sidewalks are being used	B on W	N/A	R9-5, R9-6
Bike Lane Ahead: Right Lane Bikes Only	At beginning of bike lanes	B on W	N/A	R3-16, R3-17
STOP, YIELD	At trail intersections with roads	W on R	R1-2	R1-1, R1-2
Bicycle Crossing	For motorists at trail crossings	B on Y	W79	W11-1
Bike Lane	At the far side of all arterial intersections	B on W	R81	D11-1
Hazardous Condition	Slippery or rough pavement	B on Y	W42	W8-10
Turns and Curves	At turns and curves which exceed 20- mph design specifications	B on Y	W1, 2, 3, 4, 5, 6, 14, 56, 57	W1-1, W1-2, W1-4, W1-5, W1-6
Trail Intersections	At trail intersections where no STOP or YIELD required, or sight lines limited	B on Y	W7, 8, 9	W2-1, W2-2, W2-3, W2-4, W2-5
STOP Ahead	Where STOP sign is obscured	B, R on Y	W17	W3-1
Signal Ahead	Where signal is obscured	B, R, G	W41	W3-3
Bikeway Narrows	Where bikeway width narrows or is below 8'	B on Y	W15	W5-4
Downgrade	Where sustained bikeway gradient is above 5%	B on Y	W29	W7-5
Pedestrian Crossing	Where pedestrian walkway crosses trail	B on Y	W54	W11A-2
Restricted Vertical Clearance	Where vertical clearance is less than 8'6"	B on Y	W47	W11A-2
Railroad Crossing	Where trail crosses railway tracks at grade	B on Y	W47	W10-1
Directional Signs	At intersections where access to major destinations is available	W on G	G7, G8	D1-1b(r/l), D1-1-c
Right Lane Must Turn Right; Begin Right Turn Here; Yield to Bikes	Where bike lanes end before intersection	B on W	R18	R3-7, R4-4

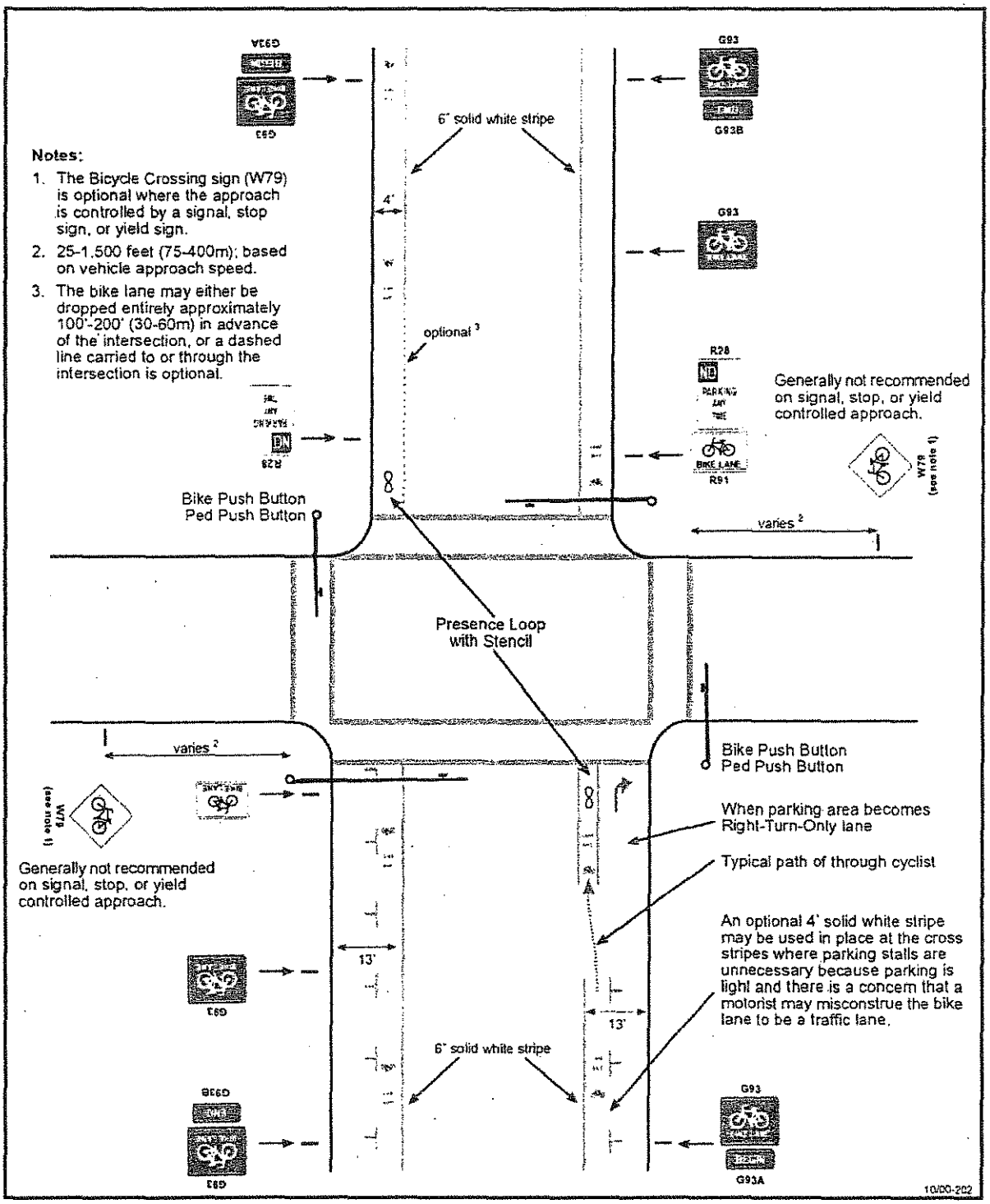
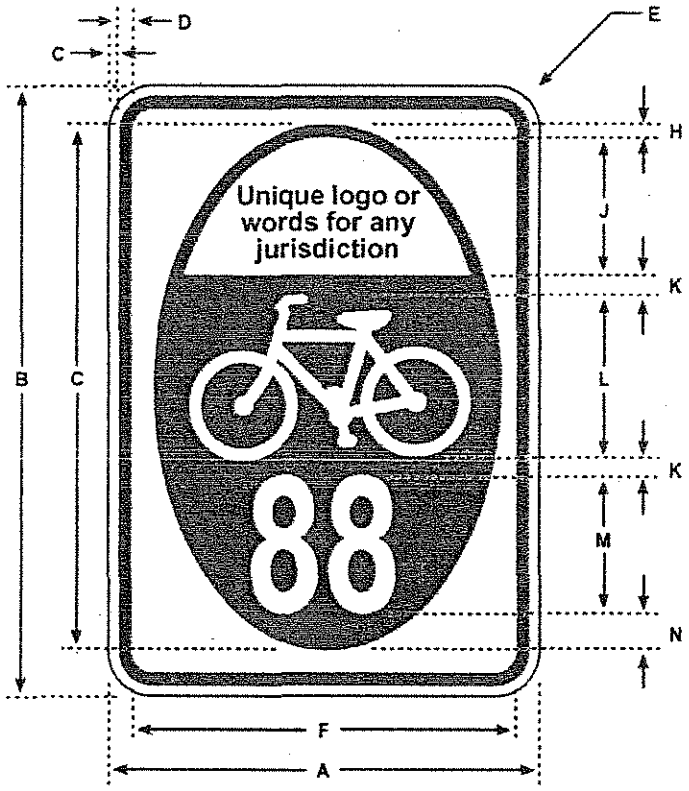


FIGURE A-7 Typical Signing At a Signalized Intersection

State of California - Department of Transportation
Code : SG45
MUTCD Number: None

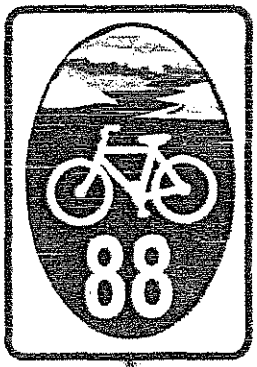


Sign Size	Dimensions (inches)												
	A	B	C	D	E	F	G	H	J	K	L	M	N
12 x 18	12	18	1/4	1/4	1-1/2	10	16	1/4	4	3/4	4-1/2	4D	1-3/4
18 x 24	18	24	3/8	1/2	1-1/2	15	21	1/2	5	1	6	5D	2-1/2

Colors
Border and Legend - Green (Reflective)
Background - White (Reflective)

10/00-206

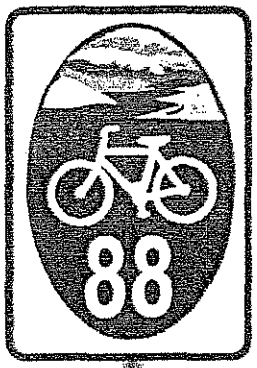
FIGURE A-8 Caltrans Customized Bikeway Signs



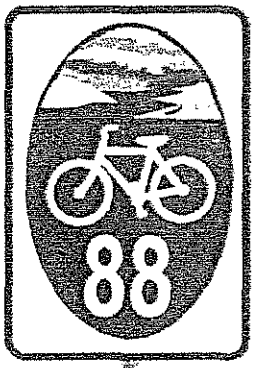
Basic Route Sign
located every block

May include destination module (can be added later when funding is available)

Basic Route Sign with Route Xings
located before route crossings



Basic Bikeway Sign
located every block on major Bikeway



Basic Route Sign with Distance Module
located at beginning of routes or at major crossings near major attractors

Mid-Block Stickers
Small inexpensive self-adhesive versions of basic route sign without route number. Can be plastered mid-block on existing poles, etc. Might also be used as an interim route signage between intersections until funding can be secured.

10/00-207

FIGURE A-9 Various Bikeway Informational Signs

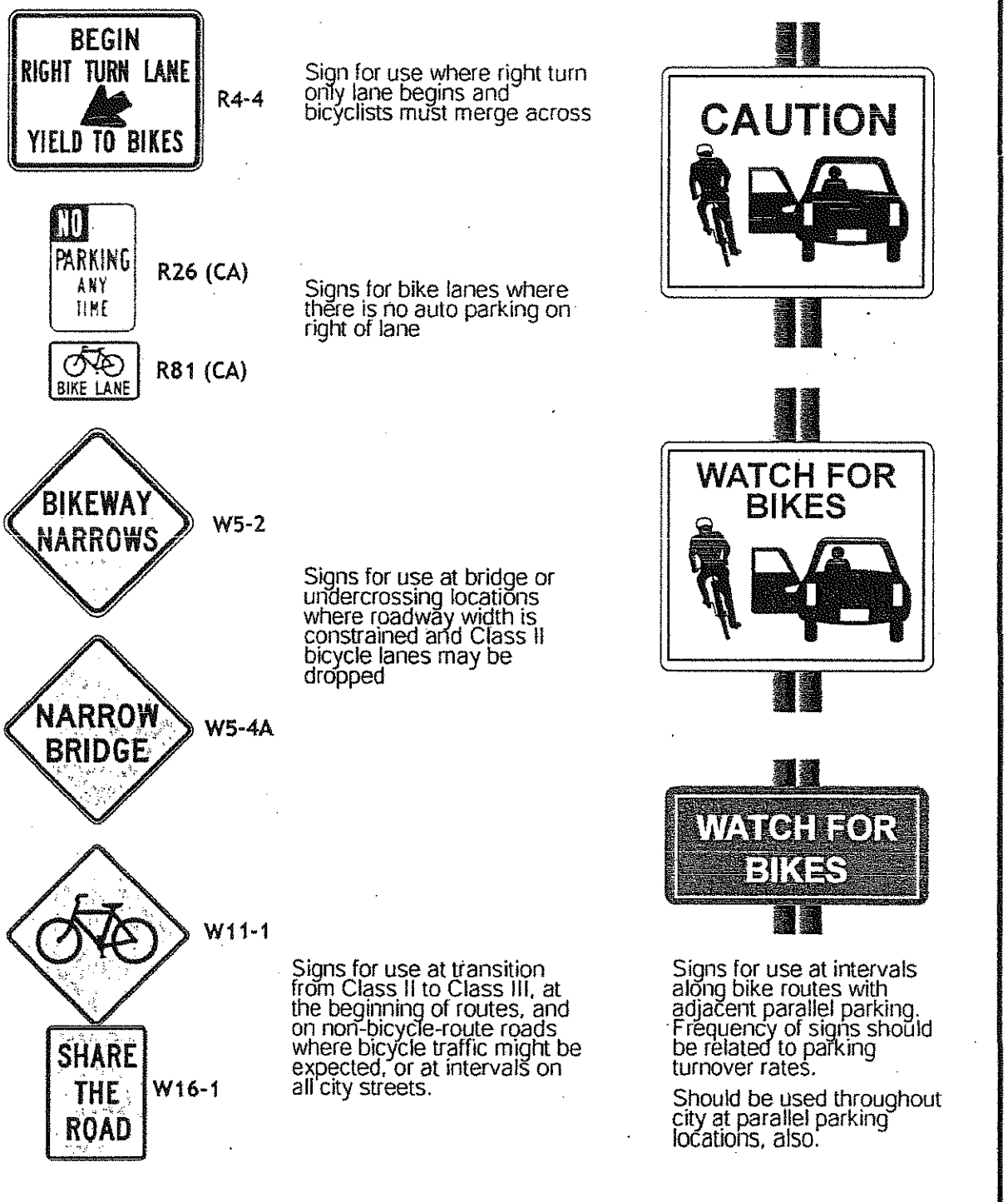


FIGURE A-10

Various On-Street Bikeway Warning Signs

OTHER SIGNAGE

Innovative signing is often developed to increase bicycle awareness and improve visibility. Signs to be installed on public roadways in California must be approved by Caltrans' California Traffic Control Devices Committee. New designs can be utilized on an experimental basis with Caltrans approval.

San Francisco was the first city in California to use the approved customized bike route logo sign. Jurisdictions may choose a graphic of their choice for the upper third portion of the sign and a numbering system, similar to the highway numbering system, can be used in the lower third. Some considerations for the use of directional signage:

- Use signs sparingly, primarily at intersections and junctions with other bicycle routes
- A consistent and recognizable logo, arrows and a destination should be on the sign to clearly direct bicyclists
- Bicycle route signs should be accompanied with destination and direction plaques

The new "Share the Road" sign, adopted by the California Traffic Control Devices Committee in 1999, is designed to advise motorists that bicyclists need to share narrow roadways with motor vehicles. This sign has been installed throughout Marin County.

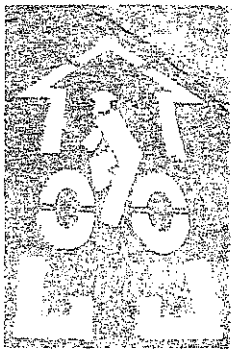
Interest has been generated over the "Bikes Allowed Use of Full Lane" sign. These words, taken directly from the California Vehicle Code (CVC 21202), remind motorists of the rights of bicyclists on the roadway, Cities may consider using this sign as an experiment as it has not yet been approved by the California Traffic Control Devices Committee.

PAVEMENT MARKINGS

The Manual on Uniform Traffic Control Devices (MUTCD) provides guidance for lane delineation, intersection treatments, and general application of pavement wording and symbols for on-road bicycle facilities and off-road paths. In addition to those presented in the MUTCD, the following experimental pavement markings may be considered.

SHARED LANE MARKINGS

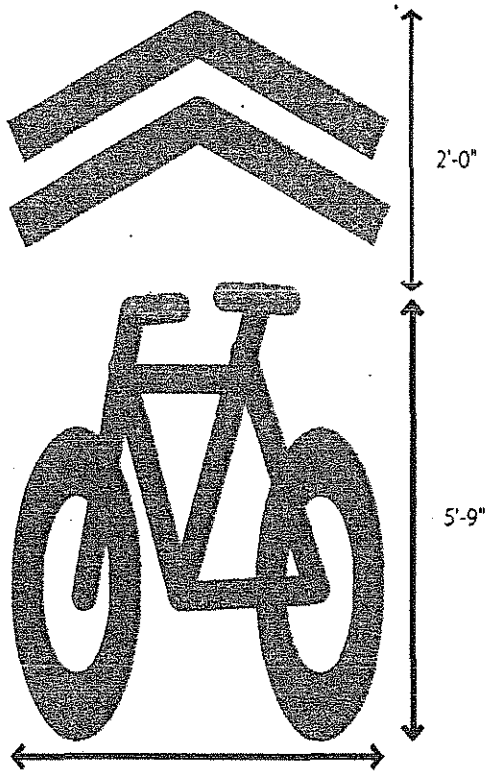
Recently, "shared lane marking" stencils, an additional treatment for Class III facilities, have been introduced in various cities to emphasize the share-the-lane concept. The stencil can serve a number of purposes, such as making motorists aware of bicycles potentially in their lane, showing bicyclists the direction of travel, and, with proper placement, reminding bicyclists to bike further from parked cars to prevent "dooring" collisions. The City of Denver has effectively used the "bike-in-house" shared marking treatment (shown in photo on previous page) for several years, and San Francisco recently tested



two designs of the shared lane marking stencil for use on Class III facilities where lanes are too narrow for sharing. Based on the results of the San Francisco study, the California Traffic Control Devices Committee (CTCDC) recommended in August 2004 that the "Chevron Bicycle Symbol" design of the Shared Lane Marking be adopted by Caltrans as a standard traffic control device in California. The "Chevron" marking design recommended by the CTCDC is shown below in **Figure A-11.** **Figure A-12** illustrates the recommended on-street Shared Lane Marking stencil installation.

Guidance language recommended by the CTCDC for use of the Shared Lane Marking is as follows:

Figure A-11
"Chevron" Design of Shared Lane Marking



Support:
The Shared Lane Marking is intended to improve the positioning of bicyclists on roadways with significant bicycle usage and parked vehicles where the curb lanes are too narrow for motorists and bicyclists to travel side by side within the lane.

Option:
The Shared Lane Marking may be used in shared lanes to improve bicyclists' positioning on roadways, encourage cycling in the correct direction, discourage cycling on sidewalks, and to decrease motor vehicle/bicycle conflicts by informing motorists where to expect cyclists, especially on urban and suburban roadways with narrow curb lanes.

Standard:
If used, the Shared Lane Marking shall be placed so that its center is a minimum of 3.4 meters (11 feet) from the curb face with on-street parking.

On street with no on-street parking, the marking should be placed so that it directs cyclists away from conditions alongside the curb face edge that compromise cyclists' safety, such as drain grates and longitudinal gutter joints. If used, the Shared Lane Marking generally should be spaced at 75 meter (250 foot) intervals.

Option:
The spacing may be increased or decreased based on judgment. On streets with downgrades, higher speeds, or wide parked vehicles, the distance from the curb lane may be increased beyond 3.4 meters (11 feet).

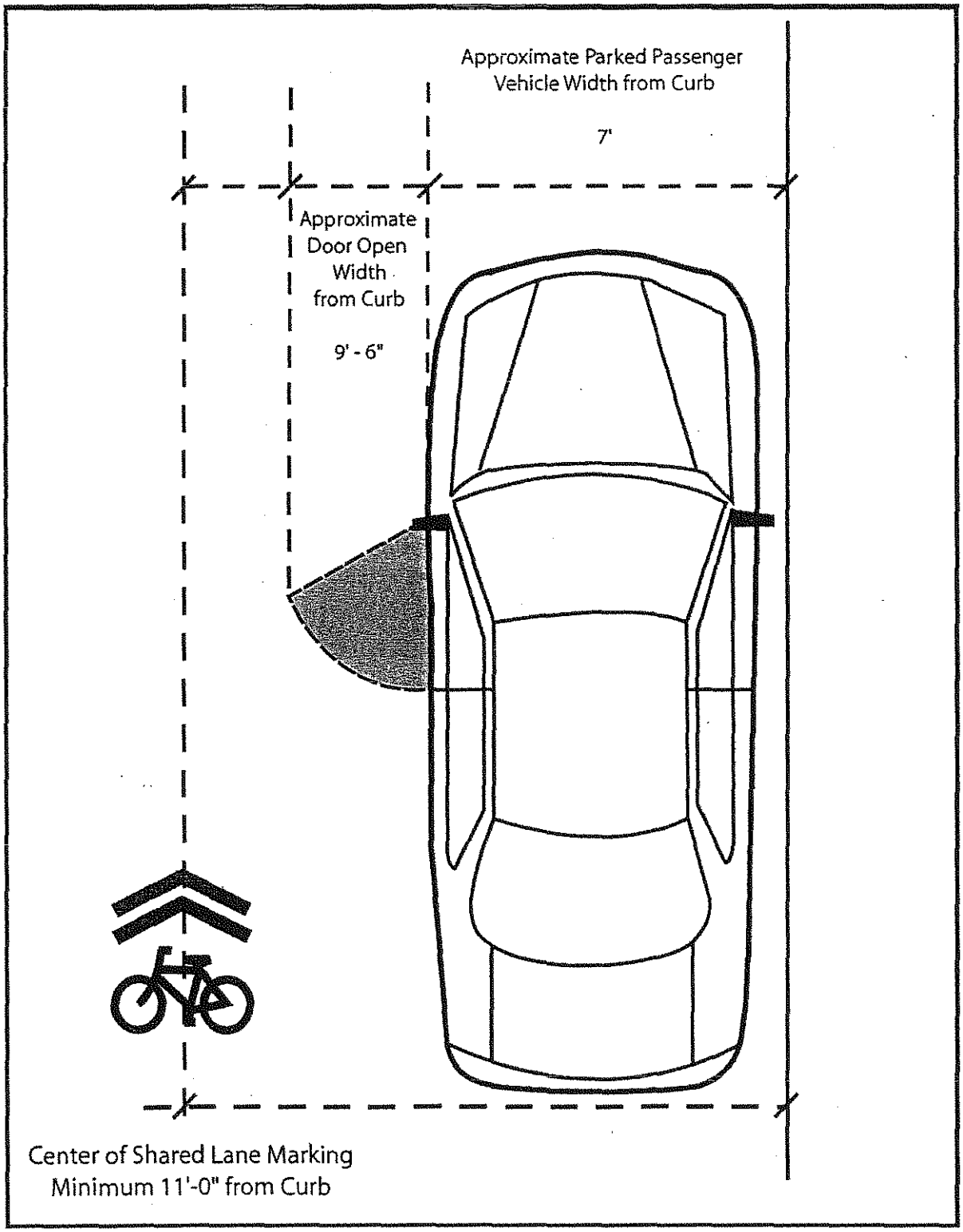


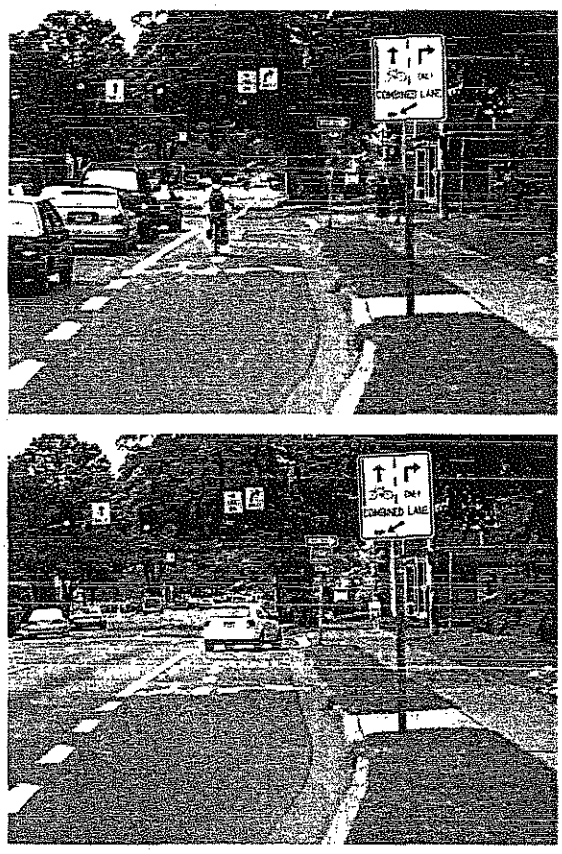
FIGURE A-12 Shared Lane Marking Installation

COMBINED BICYCLE/RIGHT TURN LANE

In this innovative treatment, a standard-width bicycle lane is installed on the left side of the dedicated right-turn lane. A dashed stripe provides the bicycle portion and the right-turn portion of the lane. This installation should be used on roadways where there is not enough room to provide a standard-width bicycle lane and a standard-width dedicated right-turn lane. These facilities are currently used in Eugene, Oregon.

Some considerations for the implementation of combined bicycle/right turn lanes:

- Average vehicle speeds < 48 km/h (30 mi/h)
- Install a sign to instruct motorists and bicyclists how to use the facility
- Stripe and sign bicycle lane pavement markings in the turn lane to position and guide bicyclists in the right-turn lane



The photos above show the operation of a combined bicycle/right turn lane, along with the signage instructing motorists and bicyclists how to properly use the facility.

BICYCLE PARKING

As more bikeways are constructed and bicycle usage grows, the need for bike parking will climb. Long-term bicycle parking at transit stations and work sites, as well as short-term parking at shopping centers and similar sites, both can support bicycling. Bicyclists have a significant need for secure long-term parking because bicycles parked for longer periods are more exposed to weather and theft, although adequate long-term parking rarely meets demand.

BICYCLE RACKS

When choosing bike racks, there are a number of things to keep in mind:

- The rack element (part of the rack that supports the bike) should keep the bike upright by supporting the frame in two places without the bicycle frame touching the rack. The rack should allow one or both wheels to be secured.
- Position racks so there is enough room between adjacent parked bicycles. If it becomes too difficult for a bicyclist to easily lock his or her bicycle, he or she may park it elsewhere and the

bicycle capacity is lowered. A row of inverted "U" racks should be situated on 30" minimum centers.

- Empty racks should not pose a tripping hazard for visually impaired pedestrians. Position racks out of the walkway's clear zone.
- When possible, racks should be in a lighted, high visibility, covered area protected from the elements. Long-term parking should always be protected

Table A-2 provides basic guidelines on the ideal locations for parking at several key activity centers as well as an optimum number of parking spaces.

Sample bicycle parking ordinance language is provided in the **Appendix** of this Plan, which outlines minimum bicycle parking standards for various land uses. This language can serve as a template for the City of Modesto in creating a bicycle parking ordinance for inclusion in the zoning code.

Table A-2
Recommended Guidelines for Bicycle Parking Locations and Quantities

Land Use or Location	Physical Location	Bicycle Capacity
City Park	Adjacent to restrooms, picnic areas, fields, and other attractions	8 bicycles per acre
City Schools	Near office entrance with good visibility	8 bicycles per 40 students
Public Facilities (city hall, libraries, community centers)	Near main entrance with good visibility	8 bicycles per location
Commercial, retail and industrial developments over 10,000 gross square feet	Near main entrance with good visibility	1 bicycle per 15 employees or 8 bicycles per 10,000 gross square feet
Shopping Centers over 10,000 gross square feet	Near main entrance with good visibility	8 bicycles per 10,000 gross square feet
Commercial Districts	Near main entrance with good visibility; not to obstruct auto or pedestrian movement	2 bicycles every 200 feet
Transit Stations	Near platform or security guard	1 bicycle per 30 parking spaces

ATTENDED BICYCLE PARKING FACILITIES

Attended bike parking is analogous to a coat check – your bike is securely stored until you need it in a supervised location. An organization called The Bikestation® Coalition is promoting enhanced attended parking at transit stations.

The Bikestation® concept is now in use in Palo Alto and Berkeley in the Bay Area. Bikestations® offer secured valet bicycle parking near transit centers. What makes Bikestations® distinctive are the other amenities that may be offered at the location – bicycle repair, cafes, showers and changing facilities, bicycle rentals, licensing, etc. Bikestations® become a virtual one-stop-shop for bicycle commuters.

Attended bicycle parking can be offered at some special events. For example, the Marin County Bicycle Coalition sponsors valet parking at many festivals in the county, the Sonoma County Bicycle Coalition sponsors valley parking at the downtown Santa Rosa Farmer's Market, and secured bicycle parking is offered at Pac Bell Park in San Francisco.

APPENDIX B: PROJECTS IDENTIFIED IN EXISTING MODESTO AND STANCOG BICYCLE PLANS

CITY OF MODESTO NON-MOTORIZED TRANSPORTATION MASTER PLAN (1996)

Table B-1 below lists the recommended bicycle facility projects identified in the 1996 Non-Motorized Transportation Master Plan.

Table B-1
Modesto Non-Motorized Transportation Master Plan (1996) Recommended Bicycle Facilities

Name	Start	End	Proposed Class
ATSF Railroad ROW	Claribel	Tuolumne River Path	I
Carpenter	Woodland	Brink	I
Carpenter (Redeveloped)	Whitmore	Coldwell	I
Crows Landing	7th	Whitemore	I
Dakota	Pelandale Extension	Southern Boundary	I
Dry Creek Path	Brookway Park	Brookway Park	I
Dry Creek Path	Beard Brook Park	Beard Brook Park	I
Dry Creek Path	Beard Brook Park	Tuolumne River	I
Hetch-Hetchy Aqueduct ROW	Semallon	Claribel	I
Highway 99	Northern Boundary	Southern Planning	I
Kiernan/Claribel	Planned Connection to Dakota	Eastern Boundary	I
Maze	Western Boundary	Sutter	I
Morton ROW	Jennie	Yosemite	I
Pelandale Extension	Dale	Northern Boundary	I
Pelandale Extension/Hwy 99 Crossing	Salida/Dakota/Brink	Blue Bird	I
Stanislaus River Path	Dale	Western Boundary	I
Sutter	Tuolumne River Park	Ustick	I
Tuolumne River Park Path	Existing Path Terminus	Municipal Golf Course	I
Tuolumne River Park Path		Southern Planning Boundary	I
Tuolumne River Park Path	Mitchell	East Planning Boundary	I
UP ROW	9th	Northern Boundary	I
Utility ROW	Parker	Garst	I
Whitmore	Morse Extension	Morgan	I
Yosemite	Sutton Park	Eastern Boundary	I
7th	H	Crows Landing	II
9th	Coldwell	Irrigation Lateral 4/5	II
Beckwith	Brink Extension	Western Boundary	II
Beverly	Dakota	Paradise	II
Brighton	Tuolumne River	Coffee	II

Name	Start	End	Proposed Class
Brink Ave extension	Salida Blvd	Carpenter Rd	II
Brink Extension	Blue Gum	Beckwith	II
California	Carpenter	Washington	II
Capistrano	Haddon	Poppypatch	II
Chapman Extension	Pelandale	Kiernan	II
Coffee	Caratina	Claribel	II
Coldwell	Tully	UP Tracks	II
Coldwell	Tully	UP ROW	II
Dale	Pelandale	Northern Boundary	II
Dale	Veneman	MID Lateral No. 7	II
Dale Road	Pelandale	Veneman	II
Darius	Dorset	Rumble	II
Dorset	Rose	Darius	II
Dragoo Park	Union	Sylvan Meadows	II
Empire	Tenaya	Yosemite	II
Finch	McClure	Mitchell	II
Floyd	McHenry	Eastern Boundary	II
Haddon	Riverside	Capistrano	II
Hasheem	Rumble	Oakdale	II
Katherine	Mount Vernon	Leveland	II
Lakewood	Briggsmore	Scenic	II
Leveland	Katherine	McHenry	II
Lincol	Clubhouse	Poppypatch	II
Lincoln extension	Clubhouse	Scenic	II
McClure	Poppypatch	Finch	II
McHenry	Leveland	Floyd	II
Miller	La Loma	Riverside	II
Mitchell	Miller	Ceres	II
Morse Extension	Woodland	Brink	II
Morse Extension	Kansas	Southern Boundary	II
Morse Road	Woodland	Kansas	II
Mount Vernon	Prescott	Katherine	II
Norseman	Garst	Creekwood	II
Oakdale	Hasheem	Northern Boundary	II
Paradise	1st	Western boundary	II
Poppypatch	Capistrano	McClure	II
Prescott	Standiford	Northern Boundary	II
Riverside	Miller	Haddon	II
Riverside	Mitchell	Encina	II
Rose	Tuolumne River	Dorset	II
Roselle	Floyd	Sylvan	II
Roselle	Floyd	Briggsmore	II
Roselle	Sylvan	Northern Boundary	II
Rosina	Yosemite	Brighton Avenue Ped Bridge	II
Rouse	Wade	Neece	II
Rumble	Darius	Hasheem	II
Salida Boulevard	Brink Ave	Broadway	II
Scenic	McGuire	19th	II
Scenic	Wycliffe	Claus	II
Shoemaker	Highway 99	Dakota	II
Sutter	Rouse	California	II
Sutter	Paradise	Tuolumne River Park	II
Sylvan	Keller	Oakdale	II

Name	Start	End	Proposed Class
Sylvan	Oakdale	Roselle	II
Sylvan	Roselle	ATSF ROW Path	II
Sylvan Meadows	Dragoo Park	Coffee	II
Union	McHenry	Dragoo Park	II
Ustick	Tuolumne River	Whitmore	II
Wade	Paradise	Rouse	II
Woodland	UP Track	Carpenter	II
Woodland	Dakota	Rosemore	II
Yosemite	Empire	Rosina	II
19th	H	La Loma	III
9th	Irrigation Lateral 4/5	G	III
Blue Bird	Nightingale	Setrok	III
Blue Bird	Pelendale	Snyder	III
Creekwood	Mechalys	Norseman	III
G	9th	7th	III
G	9th	Burney	III
G Street	1st	Burney	III
Glenn	West of Tucson	Reliance	III
H	9th	7th	III
H	9th	19th	III
H Street	19th	1st	III
Hahn	Veneman	Rumble	III
Lincoln Oak Drive	Merle	Claribel	III
Mechalys	McClure	Creekwood	III
Merle	Oakdale	Santa Fe	III
Morton	La Loma	Jennie	III
Morton	Yosemite	Beard Brook Park	III
Nightingale	Dale	Blue Bird	III
Norseman	Creekwood	Sutton Park	III
Setrok	Blue Bird	Shopping Center	III
Snyder	Blue Bird	Dale	III

STANCOG REGIONAL BICYCLE ACTION PLAN (2001)

Table B-2 below lists the recommended bicycle facility projects located within the jurisdiction of the City of Modesto that were identified in the Stanislaus Council of Governments' (StanCOG) *Regional Bicycle Action Plan,* adopted in 2001. The bikeways recommended in the StanCOG were not identified as multi-use trails, lanes, or routes. In addition, it should be noted that the some cost estimates provided seem low and are not described, in terms of the methodology used to determine the estimates. Facilities with two costs listed are likely for optional Class III and Class II facilities.

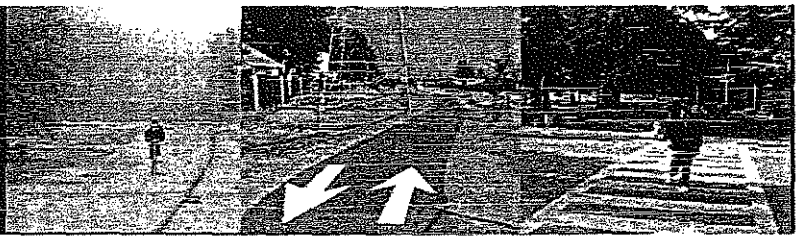
Table B-2
StanCOG Regional Bicycle Action Plan Recommended Bicycle Facilities

Name	Start	End	Length (mi)	Cost
9th Street	Tully	Coldwell	0.4	800
Briggsmore	McHenry	Held	4.2	8,400
Brink	Collegiate	North	0.9	1,800
Claus	Scenic	SR 132	1.3	2,600
Claus	Briggsmore	Townsend	3.9	7,800
Pelandale	Bridge over SR-99		0.1	200
Pelandale	Dale	Tully	2.1	4,200
SR 132	Carpenter	Paradise	7.0	14,000
SR 132	Emerald	Carpenter	0.5	1,000
SR 132	Martin Luther King, Jr.	Emerald	0.5	1,000
7th	H	B	0.5	2,500
Briggsmore	McHenry	Prescott	1.8	9,000
Burney	G	19th	0.1	500
Collegiate	Brink	Carpenter	0.2	1,000
Lakewood	Scenic	300' n/o Scenic	0.1	500
Lakewood	150' s/o Laramie	Briggsmore	0.4	2,000
Oakdale/El Vista/Mitchell	Scenic	Edgebrook	0.2	1,000
Oakdale/El Vista/Mitchell	SR 132	Finch	1.2	6,000
Paradise	Sutter	Ohio	1.4	7,000
Roselle	Briggsmore	Floyd	0.7	3,500
Standiford	w/o Prescott	Dale	1.0	5,000
Sylvan	Boyce	Oakdale	0.4	2,000
14th	D	H	0.3	1,500/30,000+
1st	G	Paradise	0.1	500/10,000+
9th	G	Needham	0.8	4,000/80,000+
Burney	19th	Scenic	0.1	500/10,000+
Carpenter	Maze	Blue Gum	1.4	7,000/140,000+
Claus	Scenic	Briggsmore	0.6	3,000/60,000+
Crows Landing	Whitmore	s/o SR 99	7.3	36,500/730,000+
Dale	Standiford	Snyder	0.7	3,500/70,000+
G	1st	9th	0.5	2,500/50,000+
G	9th	Burney	0.6	3,000/60,000+
H	9th	1st	0.5	2,500/50,000+
H	Burney	9th	0.7	3,500/70,000+
Lakewood	300' n/o Scenic	Middleboro	0.2	1,000/>20,000
Lakewood	Middleboro	150' s/o Laramie	0.1	500/>10,000
La Loma	Roundabout	SR 132	1.0	5,000/100,000+
Mitchell	Hatch	Tenaya	1.9	9,500/190,000+
Martin Luther King, Jr.	Paradise	SR 132/Maze	0.7	3,500/70,000+
Oakdale/El Vista/Mitchell	Briggsmore	Scenic	0.9	4,500/90,000+
Oakdale/El Vista/Mitchell	Floyd	Briggsmore	0.7	3,500/70,000+
Oakdale/El Vista/Mitchell	Edgebrook	Ellis	0.2	1,000/20,000+
Oakdale/El Vista/Mitchell	Encina	Roble	0.1	500/10,000+
Oakdale/El Vista/Mitchell	Roble	SR 132	0.4	2,000/40,000+
Oakdale/El Vista/Mitchell	Ellis	Encina	0.2	1,000/20,000+
Oakdale/El Vista/Mitchell	Sylvan	Mable	0.5	2,500/50,000+
Oakdale/El Vista/Mitchell	Sylvan	Floyd	0.8	4,000/80,000

Name	Start	End	Length (mi)	Cost
Paradise	1st	Sutter	0.4	2,000/40,000+
Pelandale	Gagos	Dale	0.7	3,500/70,000+
Pelandale	SR 99	Gagos	0.4	2,000/40,000
Roselle	200' s/o Turpin	100' n/o Turpin	0.1	500/10,000+
Scenic	Downey	Bodem	0.2	1,000/20,000+
Scenic	Bodem	Coffee	0.6	3,000/60,000+
Scenic	Coffee	Rose	0.5	2,500/50,000+
Scenic	Rose	Oakdale	0.5	2,500/50,000+
Scenic	Oakdale	McGuire	0.2	1,000/20,000+
Standiford	Dale	future Brink Road	0.5	2,500/50,000+
9th	Coldwell	Briggsmore	1.0	100,000
Dale	Pelandale	Snyder	0.3	30,000
Roselle	Floyd	Sylvan	0.7	70,000
Roselle	N. Rosebrook	200' s/o Talbot	0.2	20,000
Roselle	Sylvan	MID Lateral	1.9	190,000
Sisk	Pelandale	Pirrone	0.5	50,000
9th	Needham	Tully	0.2	>20,000

APPENDIX C: NON-MOTORIZED TRANSPORTATION MASTER PLAN SURVEY FORM

How walkable and bikeable is Modesto?



Thank you for taking the time to complete this survey on bicycling and walking conditions in Modesto. The goal of the Non-Motorized Transportation Master Plan Update is to make Modesto a safer and more enjoyable place for you and your children to walk and bicycle to work, to school, or for recreation. The "bikeability" and "walkability" checklists on the following pages are your chance to share your experiences walking and biking the streets, paths, and sidewalks of Modesto, and to help us to pinpoint areas that need improvement. Is your neighborhood a good place to walk or bike? Tell us why!

Before completing the checklists, please tell us a little about yourself:

Name: _____ Age: _____ Sex: _____

Address: _____ email: _____

Do you have children that walk or bike to school? ☐ Yes ☐ No School: _____

1. Reasons for bicycling or walking (check all that apply)

☐ Recreation (please describe, e.g. walking, jogging, cycling on paths, road club rides, etc.)

_____

☐ Commute to school

☐ Commute to work

☐ Shopping

Other: _____

2. In good weather months, how often do you bicycle or walk in Modesto?

☐ Every day

☐ Two to four times a week

☐ Once a week

☐ Once a month

☐ Never

3. Which of these phrases best describes you?

☐ A beginner rider who prefers to stick to the bike path or trail

☐ An intermediate rider who is not really comfortable riding in most traffic situations

☐ An advanced, confident rider who is comfortable riding in most traffic situations

Completed checklists can be turned in at the public meeting, or can be mailed to:

Bob Ford
City of Modesto Parks, Recreation & Neighborhoods Department
1010 Tenth Street, Suite 4400
Modesto, CA 95353
Phone: (209) 577-5437 Fax: (209) 579-5077

City of Modesto Parks, Recreation and Neighborhoods

Please feel free to take additional surveys for your friends and family members.

"Bikeability" Checklist

Origin/destination of bike ride(s) or route(s) (be specific):_____

_____

_____

1. Did you have a place to bicycle safely?

a) On the road, sharing the road with motor vehicles

☐ Yes ☐ Some problems (please note location):

- ☐ No space for bicyclists to ride
- ☐ Bicycle lane or paved shoulder disappeared
- ☐ Heavy and/or fast moving traffic
- ☐ Parked cars opening doors or parking in bikeways
- ☐ Too many trucks or buses
- ☐ No space for bicyclists at intersections
- ☐ Poorly lighted roadways

Other problems: _____

_____

Problem Locations: _____

_____

b) On an off-road path or trail, where motor vehicles are not allowed?

☐ Yes ☐ Some problems:

- ☐ Path ended abruptly
- ☐ Path didn't go where I wanted to go
- ☐ Path intersected with roads that were difficult to cross
- ☐ Path was crowded
- ☐ Path was poorly lighted

Other problems: _____

_____

Problem Locations: _____

_____

2. How was the surface that you rode on?

☐ Good ☐ Some problems, the road or path had:

- ☐ Potholes
- ☐ Debris (e.g. broken glass, sand, gravel)
- ☐ Dangerous drain grates, utility covers, or metal plates
- ☐ Slippery surfaces when wet (e.g. construction places, road markings)
- ☐ Uneven surface or gaps
- ☐ Cracked or broken pavement
- ☐ Bumpy or angled railroad crossings

Other problems: _____

_____

Problem Locations: _____

_____

3. How were the intersections you rode through?

☐ Good ☐ Some problems:

- ☐ Had to wait too long to cross intersections
- ☐ Signal didn't give me enough time to cross the road
- ☐ Unsure where or how to ride through intersection
- ☐ Couldn't see crossing traffic
- ☐ Signal didn't change for a bicycle

Other problems:_____

_____

Problem Locations:_____

_____

4. Did drivers behave well?

☐ Yes ☐ Some problems, drivers:

- ☐ Drove too fast
- ☐ Did not signal
- ☐ Cut me off
- ☐ Passed me too close
- ☐ Harassed me
- ☐ Ran red lights or stop sign

Other problems: _____

_____

Problem Locations:_____

_____

Ideas for educating drivers about sharing the road and respecting bicyclists:_____

_____

5. Was it easy for you to use your bike?

☐ Yes ☐ Some problems:

- ☐ No maps, signs, or road markings to help me find my way
- ☐ No safe or secure place to leave my bicycle at my destination
- ☐ No way for me to take my bicycle with me on the bus or train
- ☐ Hard to find a direct route I liked
- ☐ Had to ride on too many busy streets

Other problems: _____

_____

Problem Locations:_____

_____

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-068

Print

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF CARLOS DELA FUENTE FROM THE HOUSING REHABILITATION LOAN COMMITTEE

WHEREAS, CARLOS DELA FUENTE was appointed a member of the Housing Rehabilitation Loan Committee on March 6, 2001, and

WHEREAS, CARLOS DELA FUENTE has tendered his resignation from the aforementioned committee, and

WHEREAS, CARLOS DELA FUENTE has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of CARLOS DELA FUENTE from the Housing Rehabilitation Loan Committee be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to CARLOS DELA FUENTE for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-069

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A DIGITAL EVIDENCE SYSTEM (SOFTWARE AND HARDWARE) FOR THE MODESTO POLICE DEPARTMENT TO, VERIPIC, SANTA CLARA, CA, FOR A TOTAL ESTIMATED COST OF $45,031.44

WHEREAS, in July 2005, the existing digital image file storage system for the Modesto Police Department reached capacity, and

WHEREAS, in September 2005, the Police Department contacted the Purchasing Manager to request bids for the purchase of a digital evidence system, and

WHEREAS, on December 9, 2005, the Purchasing Division issued an informal Request for Bid (RFB) for the purchase of a digital evidence system, and

WHEREAS, on January 13, 2006, informal RFB's were opened in the Purchasing Division, and

WHEREAS, two (2) companies chose to respond, and

WHEREAS, in February 2006, the Police Department evaluation committee evaluated the bid submittals, and

WHEREAS, members of the evaluation committee observed both bidders programs in use, and

WHEREAS, in March 2006, the Modesto Police Department and Information Technology Department started discussion regarding storage required for future digital media, and

WHEREAS, on September 26, 2006, a final meeting of the evaluation committee was held. After much research and discussion it was determined that VeriPic was the

product most suitable for the Modesto Police Department's current, as well as long-term, digital evidence storage and retrieval needs, and

WHEREAS, Modesto Municipal Code Section 8-3.204 states; 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. The award of bid and contract for the purchase of a digital evidence system for the Modesto Police Department conforms to code requirements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of a digital evidence system (software and hardware) for the Modesto Police Department, to VeriPic, Santa Clara, CA, for a total estimated cost of $45,031.44.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for the purchase of a digital evidence system (software and hardware) for the Modesto Modesto Police Department, to VeriPic, Santa Clara, CA, for a total estimated cost of $45,031.44.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-070

A RESOLUTION ACCEPTING THE WORK BY ADESTA LIMITED PARTNERSHIP, FOR THE PROJECT TITLED "EXPAND ATMS – COLLEGE AVENUE PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $124,060.29.

WHEREAS, the Public Works Director has filed a report that Adesta Limited Partnership has completed the project titled "Expand ATMS – College Avenue", in accordance with the contract agreement dated March 28, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council that the project titled, "Expand ATMS – College Avenue" is hereby accepted as complete from said contractor, Adesta Limited Partnership, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $124,060.29, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-071

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE PROJECT TITLED "VIRGINIA CORRIDOR CROSSING AND GRADE RESTORATION PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $2,017,262.41.

WHEREAS, a report has been filed by the Public Works Director that the project titled "Virginia Corridor Crossings and Grade Restoration Project" has been completed by George Reed, Inc., in accordance with the contract agreement dated August 4, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council that the project titled "Virginia Corridor Crossings and Grade Restoration Project" is hereby accepted as complete from said contractor, George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $2,017,262.41, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-072

A RESOLUTION APPROVING AN AMENDMENT TO THE REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND NATIONAL RAILROAD PASSENGER CORPORATION IN AN AMOUNT NOT-TO-EXCEED $96,542.02 FOR PLATFORM CONSTRUCTION REPAIR COSTS AT THE MODESTO CALIFORNIA AMTRAK STATION, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE AGREEMENT.

WHEREAS, the lease agreement between the City and National Railroad Passenger Corporation (Amtrak) states: "LESSOR (the City), at its sole cost and expense, will maintain in good repair and safe condition the platform in accordance with all laws and regulations," and

WHEREAS, the truncated dome tiles on the platform of the Modesto Amtrak Station are in need of serious repair, and

WHEREAS, Amtrak has significant experience in repairing platforms, and

WHEREAS, on August 8, 2006, by Resolution No. 2006-505, Amtrak and the City of Modesto entered into a reimbursement agreement to pay for construction, and

WHEREAS, Amtrak has competitively bid the project and the increased cost for construction requires an Amendment to the Reimbursement Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Reimbursement Agreement between the City of Modesto and Amtrak in an amount not-to-exceed $96,542.02, for the platform construction repair costs at the Modesto California Amtrak Station.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-073

A RESOLUTION APPROVING THE PROJECT, INCLUDING PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "LA LOMA AVENUE SANITARY SEWER LIFT STATION REPLACEMENT PROJECT," ACCEPTING THE BID AND APPROVING A $1,794,000 CONTRACT WITH PRESTON PIPELINES, INC., FOR THE PROJECT TITLED, "LA LOMA AVENUE SANITARY SEWER LIFT STATION REPLACEMENT PROJECT," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, plans and specifications have been prepared for the project titled "La Loma Avenue Sanitary Sewer Lift Station Replacement Project" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "La Loma Avenue Sanitary Sewer Lift Station Replacement Project" were opened at 11:00 a.m. on December 19, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $1,794,000 received from Preston Pipelines, Inc., be accepted as the lowest responsible bid and the contract be awarded to Preston Pipelines, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the project titled "La Loma Avenue Sanitary Sewer Lift Station Replacement Project," including the plans and specifications.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of Preston Pipelines, Inc., in the amount of $1,794,000, and hereby awards Preston Pipelines, Inc., the contract titled "La Loma Avenue Sanitary Sewer Lift Station Replacement Project."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of January 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-074

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE LA LOMA AVENUE SANITARY SEWER LIFT STATION REPLACEMENT PROJECT.

WHEREAS, the La Loma Avenue Sanitary Sewer Lift Station (lift station) was first installed in 1934 and last upgraded in 1992, and

WHEREAS, the lift station is located at the base of Morton Boulevard, as it crosses under the La Loma Bridge within the Dry Creek Floodway, and

WHEREAS, when storm water in Dry Creek floods its banks, it floods Morton Boulevard and makes maintenance on the lift station impossible, and

WHEREAS, in an effort for the City to be proactive, a new lift station was designed outside of the floodway, and

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declarations (EA/PW No. 2004-15) provides for a lead agency to prepare an Initial Study on any proposed Project to analyze whether the Project may cause any significant effect on the environment, and

WHEREAS, the City of Modesto Department of Public Works has prepared an Initial Study/Mitigated Negative Declaration as provided for by CEQA, and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on November 1, 2006 and ended on December 1, 2006, and

WHEREAS, the City received public comments on the draft Initial Study/Mitigated Negative Declaration and no changes to the document were necessary as a result, and

WHEREAS, the Mitigation Monitoring Plan (MMP) is included and described within the Initial Study/Mitigated Negative Declaration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study/Mitigated Negative Declaration (EA/PW No. 2004-15) and Mitigation Monitoring Plan prepared for the La Loma Avenue Sanitary Sewer Lift Station Replacement Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The recitals set forth above are true and correct.

2. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified potentially significant environmental effects.

3. Before the Initial Study/Mitigated Negative Declaration was released for public review, feasible mitigation measures were made by or agreed to by the City, which will avoid or mitigate the effects to a point where clearly no significant effect will occur.

4. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2)).

5. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.

6. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is included in the Mitigated Negative Declaration, which is on file with the City Clerk.

7. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/PW 2004-15) provides the substantial evidence to support findings 1 through 6, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Initial Study/Mitigated Negative Declaration EA/PW 2004-15, a copy of which is on file with the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City of Modesto Public Works Department, Capital Improvement Services, is the custodian of the documents and other materials, which constitute the record of proceedings upon which its decision is based. The records are located at the office of the City of Modesto Public Works Deputy Director, 1010 Tenth Street, Fourth Floor, Modesto, CA 95354.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Public Works Director is hereby authorized and directed to file a Notice of Determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-075

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT BUDGET IN ORDER TO FULLY FUND THE CONTRACT WITH PRESTON PIPELINES, INC., AND COVER CONSTRUCTION ADMINISTRATION COSTS BY DECREASING CIP ACCOUNT 6210-430-A215-6040 (DAF DISSOLVED AIR FLOTATION) BY $496,620 AND RETURNING THE FUNDS TO ACCOUNT 6210-800-8000-8003 (SEWER RESERVES), THEN DECREASING ACCOUNT 6210-800-8000-8003 (SEWER RESERVES) AND REAPPROPRIATING $496,620 TO CIP ACCOUNT 6210-430-B609 (LA LOMA SEWER LIFT STATION)

WHEREAS, the CIP account 6210-430-B609 (La Loma Sewer Lift Station) only provides $1,710,000 in available funds to fully fund construction of the La Loma Sewer Lift Station project in the estimated total amount of $2,206,620, including funding a Contract with Preston Pipelines, Inc., for construction and to cover construction contingency and construction administration costs, and

WHEREAS, certain budgetary transactions are necessary to fully fund said Contract with Preston Pipelines, Inc., in the amount of $1,794,000 for construction services, $143,520 for construction contingency, and $269,100 to cover construction administration costs, including contract administration by City staff, for a total of $2,206,620, and

WHEREAS, the CIP Account 6210-430-A215 (DAF Dissolved Air Flotation) experienced savings due to a favorable bid below the budgeted engineer's estimate for construction, and

WHEREAS, the total amount of $496,620 is to be transferred by decreasing CIP Account 6210-430-A215-6040 (DAF Dissolved Air Flotation) and returning the funds to Account 6210-800-8000-8003 (Sewer Reserves), then decreasing Account 6210-800-

8000-8003 (Sewer Reserves) and reappropriating $496,620 to CIP account 6210-430-B609 (La Loma Sewer Lift Station),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the transfer of funds as set forth herein to fully fund the Contract with Preston Pipelines, Inc., in the amount of $1,794,000 for construction services, $143,520 for construction contingency, and $269,100 to cover construction administration costs, including contract administration by City staff for a total of $2,206,620 for the La Loma Sewer Lift Station project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-076

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS, AWARDING THE BID, AND APPROVING A $158,301 CONSTRUCTION CONTRACT WITH RICHARD A. HEAPS FOR THE PROJECT ENTITLED "TRAFFIC SIGNAL INSTALLATION AT 16TH AND J STREETS INTERSECTION," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, City staff has reviewed the plans and specifications for the project entitled, "Traffic Signal Installation at 16th and J Streets Intersection" and recommends approval to the City Council, and

WHEREAS, the bids received for the "Traffic Signal Installation at 16th and J Streets Intersection" project were opened at 11:00 a.m., on December 12, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $158,301 received from Richard A. Heaps be accepted as the lowest responsible bid, and the contract be awarded to Richard A. Heaps,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the "Traffic Signal Installation at 16th and J Streets Intersection" project.

BE IT FURTHER RESOLVED that the Council accepts the bid of Richard A. Heaps in the amount of $158,301, and hereby awards Richard A. Heaps the contract for "Traffic Signal Installation at 16th and J Streets Intersection."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of January, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Dunbar

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-077

A RESOLUTION APPROVING THE FINAL MAP AND ACCEPTING PUBLIC IMPROVEMENTS OF 16TH & G STREET PROFESSIONAL OFFICE IN THE BASELINE DEVELOPMENT AREA OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH 1630 G STREET INVESTORS, LLC

WHEREAS, 1630 G STREET INVESTORS, LLC, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 0.64 acres, known as 16TH & G Street Professional Office ("SUBDIVISION"), in the Baseline Developed Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 17th day of October, 2005, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto has certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct, and

WHEREAS, the Public Works Director has certified that all public improvements required by the City of Modesto have been completed in said tract to the satisfaction of the Public Works Director, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in said subdivision as complete and authorize the City Clerk to file a Notice of Completion.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The final map is hereby approved.

2. The dedications for streets, alleys and easements as shown thereon within the boundaries of said tract are hereby accepted on behalf of the public for public use.

3. The improvements completed in 16th & G Street Professional Office are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.

4. The City Clerk is hereby authorized to certify the map of said tract on behalf of the City of Modesto, after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid.

5. The City Manager and the City Clerk are hereby authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of January, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-078

A RESOLUTION APPROVING THE CHANGE ORDER ABOVE DIRECTOR'S AUTHORITY FOR THE PROJECT TITLED, "TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL PHASE 1.1", WITH A TOTAL ESTIMATED COST OF $351,600.00, WHICH INCLUDES CONSTRUCTION CONTINGENCY, CONSTRUCTION ADMINISTRATION AND PROJECT MANAGEMENT.

WHEREAS, the State of California Proposition 40 Park Bond Act of 2002 provides for a line item grant in the amount of $1,140,000 for the Tuolumne River Regional Park – Gateway Parcel Development, Phase 1.1, and

WHEREAS, Phase 1.1 of this project consists of initial grading of the backwater channel, installation of a Grasspave pedestrian pathway surfacing, concrete benching, signage and hydroseeding approximately 10 acres with native grasses for erosion control, and

WHEREAS, the revised cost for the current construction project totals approximately $775,000.00 leaving a balance of approximately $365,000.00 of grant funding available to spend on Phase 1.1, and

WEHREAS, staff is recommending a proposed change order to install an irrigation main line, lateral piping, spray nozzles, irrigation controller, water connection and backflow prevention device in order to provide irrigation for the approximate 10 acres being developed in Phase 1.1,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the change order above Director's Authority for the project titled, "Tuolumne River Regional Park Gateway Parcel Phase 1.1", with a total estimated cost of $351,600.00, which includes construction contingency, construction administration and project management.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of January, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-079

NOT USED

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-080

A RESOLUTION APPROVING AN AGREEMENT WITH QUALITY VIDEO SERVICES FOR PUBLIC INFORMATION ADVERTISING AND PUBLIC SERVICE ANNOUNCEMENT PRODUCTION SERVICES IN THE AMOUNT OF $36,834 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENT

WHEREAS, the City of Modesto is required to conduct public outreach and public education efforts to the community on the importance of storm drainage, water conservation, and recycling, and

WHEREAS, Quality Video Services, being fully qualified, shall complete the work described in **Exhibit "A"** attached, and

WHEREAS, it is recommended that a seventeen (17) month agreement be entered into with Quality Video Services, for a total contract amount of $36,834 ($26,000 over a twelve (12) month period), with the ability to renew for four additional one-year periods under the same terms and conditions should the parties mutually agree to an extension.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and Quality Video Services be, and is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"
SCOPE OF SERVICES

The Consultant shall provide the following services for the City:

A. Air City of Modesto Water Conservation, Clean Water and other City related public service announcement commercial spots and messages on The Central Valley Report. These messages shall air a minimum of 4 times each weekday at 7:00am, 6:30pm, 10:00pm & 11:00 pm.

B. Produce up to three commercial spots on an annual basis.

C. Provide daily water restriction notices, weekly Crimestopper Tipline coverage, and coverage of City events and programs on an ongoing basis on The Central Valley Report (Voluntary)

MODESTO CITY COUNCIL
RESOLUTION NO. 2007- 081

Print

A RESOLUTION AMENDING THE
FISCAL YEAR 2006-2007ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown in Schedule A.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, 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
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:
By: _____
SUSANA ALCALA WOOD, City Attorney

Schedule A

Finance Department

Project #Q237/Counter Remodel

From:	Contingency Reserve Account #1300-800-8000-8003	$(30,000)
To:	Capital Project Account #1300-120-Q237-6040	$ 30,000

Parks, Recreation & Neighborhoods

Cal-Home Grant

To:	State Grant Revenue Account #0410-320-3280-3490	$300,000
To:	Direct Loans Operating Account #0410-320-3280-0497	$300,000

Pike Park Play Equipment Insurance Revenue

To:	Damage Recovery Acct #1400-310-M185-8122	$20,146
To:	Infrastructure Preservation #1400-310-M185-6040	$20,146

Project #P734/George Rogers Park Improvements

To:	Parks Donations Acct #1400-310-3100-8107	$44,350
To:	Construction Acct #1400-310-P734-6040	$44,350

Public Works Department

Project #W410/Urban Water Management Plan (UWMP) Update

From:	Water Fund Reserve Acct #6100-800-8000-8003	$(25,000)
To:	Water Fund CIP Reserve Acct #6180-800-8000-8003	$ 25,000
From:	Water Fund CIP Reserve Acct #6180-800-8000-80033	$(25,000)
To:	Capital Project #W410 Acct #6180-430-W410-6010	$ 25,000

Schedule A

Project #N062/Traffic Coordination Downtown

From:	Project Acct #2300-160-N062-6010	$(75,082)
To:	Capital Grants Reserve Acct #2300-800-8000-8003	$ 75,082
From:	Capital Grants Reserve Acct #2300-800-8000-8003	$(75,082)
To:	Gas Tax Reserve Acct #0700-800-8000-8003	$ 75,082

Project #E330/Traffic Control Upgrades

From:	Capital Grants Reserve Acct #2370-800-8000-8003	$(75,082)
To:	Project Acct #2370-160-E330-6053	$ 75,082

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-082

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF FOUR (4) HONDA POLICE MOTORCYCLES TO HONDA OF MODESTO, MODESTO, CA, FOR A TOTAL ESTIMATED COST OF $62,689.

WHEREAS, on October 24, 2006, Council approved Resolution No. 2006-673, to accept the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant in the amount of $1,000,000 from the State of California, Office of Traffic Safety (OTS), and

WHEREAS, this grant provides for four (4) full-time police officers and their vehicles, and

WHEREAS, grant funds will be used to pay 100% of the salary for the four (4) police officers the first operational year and 50% salary for the second year, and

WHEREAS, the grant will also fund four (4) fully equipped police motorcycles for these officers, and

WHEREAS, on November 28, 2006, Council approved Resolution No. 2006-732 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of four (4) Honda ST1300P police motorcycles, as awarded in the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant, at an estimated total cost of $70,000, and

WHEREAS, on November 29, 2006, the Purchasing Division issued RFB No. 0607-30 for the purchase of four (4) Honda police motorcycles to eighteen (18) prospective bidders, one (1) of which is a local company, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on December 19, 2006, RFB's were formally opened in the City Clerk's office, and

WHEREAS, of the eighteen (18) prospective bidders, two (2) companies chose to respond, of which, one (1) company furnished a responsive and responsible bid. One (1) company was deemed non-responsive and non-responsible, as they provided only one (1) signed original document of Exhibit A in their bid submittal, and

WHEREAS, exhibit A is the Bid Acknowledgement, which acknowledges receipt of the referenced RFB and/or Addenda and the bidder offers and agrees to furnish the articles and/or services specified on behalf of the bidder, in accordance with the specifications, terms and conditions of the RFB and Bid Acknowledgement, and

WHEREAS, the company's bid submittal was disqualified and received no further consideration, and

WHEREAS, RFB 0607-30 specification 3.1 Required Documents, states:

- Failure to furnish two (2) "inked" signed original bid documents will result in disqualification.
- Failure to furnish the required documents may result in disqualification, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of four (4) Honda police motorcycles to Honda of Modesto, Modesto, CA, for the total estimated cost of $62,689, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of four (4) Honda police motorcycles conforms to code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of four (4) Honda police motorcycles to Honda of Modesto, Modesto, CA, for the total estimated cost of $62,689.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for the purchase of four (4) Honda police motorcycles to Honda of Modesto, Modesto, CA, for the total estimated cost of $62,689.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-083

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF FOUR (4) LIGHTED CROSSWALK SYSTEMS WITH AUDIBLE PUSH BUTTONS FOR THE PUBLIC WORKS DEPARTMENT, TRAFFIC ENGINEERING & OPERATIONS DIVISION, TO WESTERN PACIFIC SIGNAL, LLC., SAN LEANDRO, CA FOR THE TOTAL ESTIMATED COST OF $51,707

WHEREAS, on September 6, 2005, Council approved Resolution No. 2005-448 accepting a grant in the amount of $110,000 from the Office of Traffic Safety (OTS) for the CIP project titled, "Pedestrian and Bicyclist Safety Enhancement," and

WHEREAS, of this total amount, $80,000 was dedicated for the purchase of four (4) lighted crosswalk systems, and

WHEREAS, staff shall install lighted crosswalks at the following locations:

- Lucern Avenue and Hunter Avenue
- Sheldon drive and Pembroke Drive
- Evergreen Avenue and Dougfir Drive
- 11th Street at the 10th Street Parking Garage, and

WHEREAS, the installation of these lighted crosswalks will provide efficient and effective movement of people, goods, and services by enhancing traffic safety in the area, and

WHEREAS, on September 26, 2006, Council approved Resolution No. 2006-616 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of four (4) lighted crosswalk systems with audible push buttons, for the Public Works Department, Traffic Engineering & Operations Division, and

WHEREAS, on November 21, 2006, the Purchasing Division issued Request for Bid No. 0607-28 for the purchase of four (4) lighted crosswalk systems with audible push buttons to thirteen (13) prospective bidders, one (1) of which was a local company, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on January 2, 2007, RFB's were formally opened in the City Clerk's office, and

WHEREAS, of the thirteen (13) prospective bidders, two (2) companies chose to respond. All bidders provided responsive and responsible bids, and

WHEREAS, based on being deemed the lowest responsive and responsible bidder, City staff recommends the award of bid and contract for the purchase of four (4) lighted crosswalk systems with audible push buttons for the Public Works Department, Traffic Engineering & Operations Division, to Western Pacific Signal, LLC., San Leandro, CA, for the total estimated cost of $51,707, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of four (4) lighted crosswalk systems with audible push buttons for the Public Works Department, Traffic Engineering & Operations Division, conforms to code requirements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of four (4) lighted crosswalk systems with audible push buttons for the Public Works Department, Traffic Engineering & Operations Division, to Western Pacific Signal, LLC., San Leandro, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for the purchase of four (4) lighted crosswalk systems with audible push buttons for the Public Works Department, Traffic Engineering & Operations Division, to Western Pacific Signal, LLC., San Leandro, CA for the total estimated cost of $51,707.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-084

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF HOT PATCH WORK FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO PATCH CREW, MODESTO, CA, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $138,000

WHEREAS, the Public Works Department, Water Division requested contractual assistance to perform hot patch work throughout Modesto and the outlying areas included in the City of Modesto's ten (10) water systems, and

WHEREAS, the outlying areas include Waterford, Hickman, Salida, Del Rio, parts of Ceres, parts of Turlock, Grayson, Empire and other County areas just outside the City limits, and

WHEREAS, hot patch work consists of asphalt repairs to street cuts made in order to make repairs and improvements to the water system, and

WHEREAS, the City crews perform some of this work, but often in-house resources are not available to perform the hot patch work as needed, and

WHEREAS, on September 5, 2006, Council approved Resolution No. 2006-529 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of Hot Patch Work for the Public Works Department, Water Division, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on November 22, 2006, the Purchasing Division issued Request for Bid No. 0607-12 for the furnishing of Hot Patch Work to forty-seven (47) prospective

bidders, six (6) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on January 2, 2007, RFB's were formally opened in the City Clerk's office. Of the forty-seven (7) prospective bidders, two (2) companies chose to respond, and

WHEREAS, based on being deemed the lowest responsive and responsible bidder, City staff recommends the award of bid and contract for the furnishing of Hot Patch Work for the Public Works Department, Water Division, to Patch Crew, Modesto, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $138,000, and

WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the furnishing of Hot Patch Work conforms to code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the furnishing of Hot Patch Work for the Public Works Department, Water Division, to Patch Crew, Modesto, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $138,000.

BE IT FURTHER RESOLVED that the Purchasing Division will draft an agreement for the approval and signature of the City Manager, for the furnishing of Hot Patch Work for the Public Work Department, Water Division, to Patch Crew, Modesto,

CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $138,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-085

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE PURCHASE OF BRASS SERVICE FITTINGS TO THREE (3) COMPANIES, 1) FERGUSON WATERWORKS, MODESTO, CA, 2) GENERAL PLUMBING SUPPLY CO., INC., SONORA, CA, AND 3) GROENIGER & CO., MODESTO, CA, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $143,261

WHEREAS, the Finance Department, Central Stores Division inventories various materials for use by the Public Works Department and Parks, Recreation and Neighborhoods Department for City projects, including brass service fittings, and

WHEREAS, these fittings are used to connect water meters to residential homes and businesses, and

WHEREAS, these fittings shall be purchased from annual purchase agreements as "inventory stock", and warehoused and distributed by the Central Stores Division, and

WHEREAS, on September 26, 2006, Council approved Resolution No. 2006-607 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of Brass Service Fittings for the Public Works Department and Parks, Recreation and Neighborhoods Department, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on October 20, 2006, the Purchasing Division issued Request for Bid No. 0607-24 for the purchase of Brass Service Fittings to thirty-five (35) prospective bidders, fourteen (14) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on November 21, 2006, RFB's were formally opened in the City Clerk's office. Of the thirty-five (35) prospective bidders, five (5) companies chose to respond, and

WHEREAS, based on being deemed the lowest responsive and responsible bids, City staff recommends the award of bid and contracts for the purchase of Brass Service Fittings to three (3) companies, 1) Ferguson Waterworks, Modesto, CA, 2) General Plumbing Supply Co., Inc., Sonora, CA, and 3) Groeniger & Co., Modesto, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $143,261, and

WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of Brass Service Fittings conforms to code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the purchase of Brass Service Fittings to three (3) companies, 1) Ferguson Waterworks, Modesto, CA, 2) General Plumbing Supply Co., Inc., Sonora, CA, and 3) Groeniger & Co., Modesto, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $143,261.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue purchase agreements for the purchase of Brass Service Fittings to three (3) companies, 1) Ferguson Waterworks, Modesto, CA, 2) General Plumbing Supply Co., Inc., Sonora, CA, and 3) Groeniger & Co., Modesto, CA, for a two (2) year agreement,

with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $143,261.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

RESCINDED

JUN 12 2007

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2007-359

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-086

A RESOLUTION ESTABLISHING FEES FOR MUNICIPAL OFF-STREET PARKING FACILITIES, PROVIDING FOR CONTROL THEREOF, AND, RESCINDING RESOLUTIONS NOS. 2001-608 AND 2003-105.

WHEREAS, Section 3-2.1601 of the Modesto Municipal Code provides that the City Council may from time to time establish and designate municipal off-street parking facilities in the City by resolution of the Council, and

WHEREAS, Section 3-2.1602 of the Modesto Municipal Code provides that the hours and days upon which the operation of off-street parking facilities shall be effective shall be established from time to time by resolution of the Council, and

WHEREAS, Section 3-2.1603 of the Modesto Municipal Code provides that the rates for use of off-street parking facilities shall be established from time to time by resolution of the Council, and

WHEREAS, on November 27, 2001, the City Council, by Resolution No. 2001-608, established the current fee schedule and hours that fees can be collected at the City's off-street parking facilities, and

WHEREAS, on February 25, 2003, the City Council, by Resolution No. 2003-105, amended Resolution No. 2001-608, extending parking garage fee collection hours at the 10th and 11th Street Garages, and

WHEREAS, on September 13, 2005, following the City's established three-bid process, the City hired Walker Parking Consultants to complete an assessment of the City-owned parking facilities (the Walker Report), and

WHEREAS, Walker's assessment included the financial condition of the Parking Services Division, a review of the current parking agreements, rates, equipment, management, administration and operations, and the feasibility of privatization of the parking system, and

WHEREAS, this item was presented to the Finance Committee on July 24, 2006, and August 9, 2006, and

WHEREAS, at its August 9, 2006, meeting the Finance Committee recommended that the City Council 1) accept the Walker Parking Consultants Parking Assessment Report, and 2) direct staff to develop an implementation plan for the provisions and recommendations of the report, and

WHEREAS, on September 12, 2006, by Resolution No. 2006-588, the Council accepted the report, approved implementation of many of the recommendations of the Walker Report, and directed staff to move forward with implementation of: enforcement of penalties for employee misuse of parking; increasing monthly passes and equalization of rates to surface lots; installation of automated pay stations; increasing responsibility of Lead Garage Attendants; conducting booth audits; and hiring of Parking Service Representatives, a Parking Supervisor and an Administrative Analyst, and

WHEREAS, one recommendation accepted by the Council on September 12, 2006, was to amend the parking fees to: implement a rate increase of $20 per month to bring the monthly parking pass rate from $40 to $60; implement annual rate increases of 3% for monthly passes until they are equivalent to 50% of the regular hourly parking fee for 160 hours a month; and standardize parking rates, resulting in the surface lots having the same per hour charge as the garages, and

WHEREAS, staff recommended that the Council also approve establishing rates for Recreational Vehicles, bus and commercial truck parking; establishing rates for rental of entire surface lots and the first floor of the Eleventh Street parking garage; providing grace periods in garages; and increasing the fee for validation stamp booklets, and

WHEREAS, the Fees Task Force met on November 29, 2006, and December 18, 2006, to consider the proposed fees, and

WHEREAS, on December 18, 2006, the Fees Task Force approved staff's recommendations, and

WHEREAS, by an agenda report to the City Council from the Parks, Recreation and Neighborhoods Department dated December 18, 2006, City staff recommended implementing a rate increase of $20 per month to bring the monthly parking pass rate from $40 to $60 and implementing annual rate increases of 3% for monthly passes until they are equivalent to 50% of the regular hourly parking fee for 160 hours a month, standardizing parking rates, resulting in the surface lots having the same per hour charge as the garages establishing rates for Recreational Vehicle, bus and commercial truck parking, establishing rates for rental of entire surface lots and first floors of parking garages, providing grace periods of ten (10) minutes in garages, and increasing the fee for validation stamp booklets, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on January 9, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed parking rates, and

WHEREAS, at said public hearing, the City Council adopted a motion of intent to adopt the recommended fees, with the exception that the increase for monthly parking passes be set at $2 annually, and

WHEREAS, on January 9, 2007, the City Council directed staff to address the net of the rental of surface lots and the first floor of the Eleventh Street parking garage on the weekends,

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

SECTION 1. GARAGE PARKING FACILITIES.

(a) The following municipal garage parking facilities are hereby established:

(1) Eleventh Street Garage (Lot 28) west side of 11th Street between I and J Streets;

(2) Ninth Street Garage (Lot 43) west side of 9th Street between K and L Streets;

(3) Tenth Street Garage (Lot 44) west side of 11th Street between J and K Streets.

(b) Vehicular parking on said parking facilities shall be controlled and regulated as follows:

(1) From 6:00 a.m. to 6:00 p.m., seven days per week, the rate of One and no/100ths dollar ($1.00) per hour or fraction thereof, unless validated in accordance with the provisions of Section 3-2.1604 of the Modesto Municipal Code.

(2) From 6:00 p.m. to 6:00 a.m., seven days per week, the rate of Five and no/100ths dollars ($5.00) per evening, unless validated in accordance with the provisions of Section 3-2.1604 of the Modesto Municipal Code.

(c) The price for validation stamps to be used with the validation system on said garage parking facilities, as provided by Section 3-2.1604 of the Modesto Municipal Code, shall be $107.00 for a book of one hundred (100) stamps.

(d) The Parks, Recreation and Neighborhoods Director may designate spaces in said garage parking facilities for the free parking of bicycles. When appropriate signs are erected, bicycles may be parked in such areas without charge.

(e) Monthly parking passes may be authorized by the Parks, Recreation and Neighborhoods Director at said garage parking facilities when it does not encroach on the needs of commercial parking and/or other parking agreements. The monthly charges for such passes for the three parking garages (Lots 28, 43 and 44) shall be Sixty and no/100ths dollars ($60.00) for 2007; Sixty-two and no/100th dollars ($62.00) for 2008; Sixty-four and no/100th dollars ($64.00) for 2009; Sixty-six and no/100th dollars ($66.00) for 2010; Sixty-eight and no/100th dollars ($68.00) for 2011; Seventy and no/100th dollars ($70.00) for 2012; Seventy-two and no/100th dollars ($72.00) for 2012; Seventy-four and no/100th dollars ($74.00) for 2013, Seventy-six and no/100th dollars ($76.00) for 2014; Seventy-eight and no/100th dollars ($78.00) for 2015; and, Eighty and no/100th dollars ($80.00) for 2015.

(f) From time to time, the promoters of special events have the need to use the entire first floor of the Eleventh Street parking garage for their events. The charges for such "buy-out" rentals shall be Two hundred Twenty-five and no/100th dollars ($225.00), per twenty-four (24) hour period or portion there of.

(g) In order to accommodate patrons who are unable to locate a parking space, a ten (10) - minute free, grace period shall be allowed.

SECTION 2. SURFACE PARKING LOTS.

(a) For the purposes of this section, municipal off-street parking facilities shall be defined as those that are equipped with automated collection devices and/or are staffed. Parking lots described in Section 3. below shall be excluded.

(b) Monthly parking passes may be authorized by the Parks, Recreation and Neighborhoods Director or any surface parking lot when it does not encroach on the needs of commercial parking. The monthly charges for such passes shall be Sixty and no/100ths dollars ($60.00) for 2007; Sixty-two and no/100th dollars ($62.00) for 2008; Sixty-four and no/100th dollars ($64.00) for 2009; Sixty-six and no/100th dollars ($66.00) for 2010; Sixty-eight and no/100th dollars ($68.00) for 2011; Seventy and no/100th dollars ($70.00) for 2012; Seventy-two and no/100th dollars ($72.00) for 2012; Seventy-four and no/100th dollars ($74.00) for 2013, Seventy-six and no/100th dollars ($76.00) for 2014; Seventy-eight and no/100th dollars ($78.00) for 2015; and, Eighty and no/100th dollars ($80.00) for 2015.

(c) Recreational Vehicles (RVs) may be allowed to park on surface lots as designated by the Parks, Recreation and Neighborhoods Director. The charges per twenty-four (24) hour period, or portion thereof, shall be Twenty and no/100ths dollars ($20.00).

(d) Buses and commercial trucks may be allowed to park on surface lots as designated by the Parks, Recreation and Neighborhoods Director. The charges per twenty-four (24) hour period, or portion thereof, shall be Thirty and no/100ths dollars ($30.00).

(e) From time to time, the promoters of special events have the need to use an entire surface lot for their event. The charges for such "buy-out" rentals shall be Six Hundred Fifteen and no/100th dollars ($615.00) for the surface lot at 10th and H (123 spaces); Three Hundred Thirty and no/100th dollars ($330.00) for the surface lot at 9th and I (66 spaces); Two Hundred Fifteen and no/100th dollars ($215.00) for the surface lot at 9th and J (43 spaces); Two Hundred Twenty-five and no/100th dollars ($225.00) for the first floor of the Eleventh Street garage (45 Spaces); and Seven Hundred Fifty and no/100th dollars ($750.00) for the Centre Plaza surface lot (150 spaces). In addition, a discount of $1 per space shall be provided at the Centre Plaza lot when

the rental of the Centre Plaza lot is in conjunction with an event at the Modesto Centre Plaza. In that case, the rate will be Six Hundred and no/100th dollars ($600.00), with Seventy-five and no/100th dollars ($75.00) of that amount going to the Centre Plaza operating fund.

(f) Additional surface parking facilities and/or hours of operation, including weekends may be authorized by the Parks, Recreation and Neighborhoods Director as appropriate to meet parking needs, comply with existing agreements, or allow for collection of fees for special events.

SECTION 3. FREE PARKING LOTS.

(a) The following municipal off-street parking facilities shall be free parking lots:

(1) Lot 13, north side of H Street between 15th and 16th Streets (Modesto Stanislaus Library);

(2) Lot 15, east side of 11th Street between F and G Streets (north of Fire Station #1); and

(3) Lot 16, east side of 11th Street between F and G Streets (south of Fire Station #1).

SECTION 4. DISABLED PERSONS. Notwithstanding any other provision of this resolution, disabled persons, as defined in Section 22511.5 of the California Vehicle Code, displaying a distinguishing license plate or distinguishing placard issued pursuant to Section 22511.5 of the California Vehicle Code may park free in any of the municipal off-street parking facilities specified in this resolution, except in reserved parking spaces.

SECTION 5. JURY PARKING. Persons ordered to appear for jury duty may park exclusively in the following municipal off-street parking facility in compliance with the fees and regulations specified in this resolution:

(1) Lot 10, exclusive all day, east side of 8th Street between I and K streets.

SECTION 6. Seventy-five percent (75%) of the gross evening revenues collected between the hours of 6:00 p.m. and 6:00 a.m. at the Eleventh Street Parking Garage shall be allocated for police services to support evening activities in proximity to that garage.

SECTION 7. The Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

SECTION 8. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after February 7, 2007.

SECTION 9. RESCIND. Resolutions Nos. 2001-608 and 2003-105 are hereby rescinded effective at midnight on February 6, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-087

A RESOLUTION APPROVING THE PROTECTED-PERMISSIVE SIGNAL EVALUATION REPORT AND AUTHORIZING STAFF TO REPLACE THE PROTECTED-PERMISSIVE PHASE OPERATION WITH A PROTECTED LEFT-TURN OPERATION AT THE SYLVAN AVENUE/OAKDALE ROAD INTERSECTION (EAST/WEST DIRECTION)

WHEREAS, City staff has reviewed the Protected-Permissive Signal Evaluation Report and recommends approval to the City Council, and

WHEREAS, the City now has protected-permissive traffic signal phasing at 46 intersections, and

WHEREAS, staff recommends continuing use of protected-permissive phasing at appropriate locations and the monitoring of these installations for improvements and/or modifications based on periodic technical analysis, and

WHEREAS, after reviewing the data presented in the Protected-Permissive Signal Evaluation attached hereto as **Attachment 1** and incorporated herein by this reference, staff recommends replacing the protected-permissive phase operation with a protected left-turn operation at the Sylvan Avenue/Oakdale Road intersection (east/west direction), and

WHEREAS, the Safety & Communities Committee at its January 3, 2007, meeting reviewed this request and authorized its presentation to City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Protected-Permissive Signal Evaluation report, attached hereto as Attachment 1.

BE IT FURTHER RESOLVED that the Council authorizes staff to replace the protected-permissive phase operation with a protected left-turn operation at the Sylvan Avenue/Oakdale Road intersection (east/west direction).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Attachment 1

Protected/Permissive Signal Evaluation
7/1/05 - 6/30/06

	Left-turn Phasing	Posted Speed	2001-2002*		2002-2003		2003-2004		2004-2005		2005-2006	
			Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn
Briggsmore/College												
North	P/P	35	11	3	3	0	2	1	5	2	0	0
South	P/P	35			1	1	0	0	1	0	1	0
East	Protected	45	14	6	7	4	4	0	5	0	6	0
West	Protected	45			12	6	3	0	8	1	6	0
Briggsmore/Tully												
North	Protected	35	10	4	6	2	3	2	7	4	6	4
South	Protected	35			12	5	8	2	10	4	4	2
East	Protected	45	8	3	14	3	5	2	17	7	4	1
West	Protected	45			8	0	11	4	14	1	6	2
Carpenter/Blue Gum												
North	Protected	40	24	9	17	14	8	3	9	0	3	1
South	Protected	30			12	7	8	2	11	1	1	0
East	Protected-Split	35	3	1	5	0	1	1	5	3	5	0
West	Protected-Split	35			0	0	4	0	7	5	0	0
Carpenter/Kansas												
North	Protected	40	12	1	6	1	3	0	11	2	3	0
South	Protected	40			10	1	6	1	6	0	6	1
East	P/P	40	5	1	1	0	2	1	2	0	1	0
West	P/P	35			7	1	4	2	3	1	4	0
Carpenter/Woodland												
North	Protected	40	12	7	7	3	10	6	8	4	11	6
South	Protected	40			5	3	10	5	10	3	12	7
East	Protected-Split	30	7	3	2	0	1	0	3	0	3	0
West	Protected-Split	30			6	0	2	0	2	0	3	0
Coffee/Floyd												
North	Protected	40	16	5	7	2	8	5	5	4	3	0
South	Protected	40			7	1	8	5	14	8	2	0
East	Permissive	30	7	1	4	1	4	1	1	0	3	0
West	Permissive	30			4	0	2	1	2	0	1	0
Coffee/Mable												
North	P/P	40	3	2	5	2	0	0	2	1	0	0
South	P/P	40			4	3	0	0	4	3	4	2
East	Permissive	30	0	0	0	0	0	0	2	0	1	0
West	Permissive	30			3	0	0	0	3	0	1	0

Attachment 1

Protected/Permissive Signal Evaluation
7/1/05 - 6/30/06

	Left-turn Phasing	Posted Speed	2001-2002* Total	2001-2002* Left-turn	2002-2003 Total	2002-2003 Left-turn	2003-2004 Total	2003-2004 Left-turn	2004-2005 Total	2004-2005 Left-turn	2005-2006 Total	2005-2006 Left-turn
Coffee/Norwegian												
North	P/P	40	3	2	0	0	3	2	3	1	3	0
South	P/P	40			2	0	3	0	1	0	2	0
East	Protected	35	2	0	1	0	0	0	2	0	2	0
West	Protected	35			0	0	0	0	0	0	0	0
Coffee/Rumble												
North	P/P	40	10	3	3	3	2	1	4	0	1	0
South	P/P	40			2	1	3	1	1	1	3	1
East	Permissive	30	4	0	2	0	1	0	2	1	1	0
West	Permissive	25			0	0	1	0	2	0	5	0
Coffee/Spanos												
North	P/P	40	N/A	N/A	1	0	1	0	2	0	0	0
South	P/P	40	N/A	N/A	2	2	2	1	2	2	1	1
East	Permissive	25	N/A	N/A	0	0	0	0	0	0	1	0
West	Permissive	25	N/A	N/A	0	0	1	1	0	0	2	0
Coffee/Sylvan Meadows												
North	P/P	40	N/A	N/A	N/A	N/A	1	1	1	0	0	0
South	P/P	40	N/A	N/A	N/A	N/A	1	0	2	2	1	0
East	Permissive	25	N/A	N/A	N/A	N/A	1	0	0	0	2	0
West	Permissive	25	N/A	N/A	N/A	N/A	1	0	0	0	1	1
College/Coldwell												
North	P/P	25	N/A	N/A	2	1	0	0	0	0	2	2
South	P/P	25	N/A	N/A	2	0	0	0	2	1	1	0
East	Permissive	25	N/A	N/A	1	0	1	0	2	0	1	0
West	Permissive	25	N/A	N/A	4	2	2	0	1	1	1	1
Creekwood/Claus												
North	Protected	50	6	1	1	0	2	0	1	0	2	0
South	Protected	50			4	0	3	0	7	0	0	0
East	P/P	35	4	1	1	0	2	1	2	1	3	0
West	P/P	35			3	2	4	1	5	0	3	0
Dale/Snyder												
North	P/P	40	7	3	1	0	5	3	0	0	5	4
South	P/P	40			5	5	6	3	6	4	5	4
East	P/P	25	2	0	0	0	0	0	2	0	0	0
West	P/P	30			2	0	0	0	1	0	0	0

Attachment 1

Protected/Permissive Signal Evaluation
7/1/05 - 6/30/06

	Left-turn Phasing	Posted Speed	2001-2002*		2002-2003		2003-2004		2004-2005		2005-2006	
			Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn
Dale/Veneman												
North	P/P	35	N/A	N/A	1	0	1	1	1	1	5	4
South	P/P	40	N/A	N/A	4	0	5	3	3	1	2	2
East	Permissive	25	N/A	N/A	2	1	0	0	1	0	4	1
West	Permissive	30	N/A	N/A	3	1	2	1	3	3	0	0
Dale/Vintage Faire												
North	P/P	35	1	1	1	1	0	0	2	2	0	0
South	P/P	35			0	0	0	0	0	0	0	0
East	Permissive	25	0	0	0	0	0	0	0	0	0	0
West	Permissive	25			0	0	0	0	0	0	0	0
El Vista/Encina												
North	P/P	40	N/A	N/A	N/A	N/A	4	1	2	1	4	0
South	P/P	40	N/A	N/A	N/A	N/A	6	4	2	0	2	0
East	Permissive	25	N/A	N/A	N/A	N/A	0	0	1	0	2	0
West	Permissive	25	N/A	N/A	N/A	N/A	0	0	1	0	3	1
Floyd/Oakdale												
North	Protected	40	14	2	4	0	6	1	6	0	4	0
South	Protected	45			5	0	10	1	7	3	2	1
East	Protected	30	7	1	3	0	3	1	1	0	6	1
West	Protected	35			4	0	5	0	6	0	2	1
Miller/El Vista												
North	P/P	40	5	2	2	1	4	1	3	1	2	0
South	P/P	40			8	3	2	0	4	0	3	1
East	Permissive	35	4	1	5	2	0	0	0	0	3	2
West	Permissive	25			4	0	3	2	5	1	1	0
Oakdale/Lancey												
North	Protected	40	N/A	N/A	3	1	12	10	6	5	2	0
South	Protected	40	N/A	N/A	8	3	7	0	6	0	7	1
East	Permissive	25	N/A	N/A	0	0	2	0	3	1	0	0
West	Permissive	25	N/A	N/A	4	3	2	1	0	0	1	0
Oakdale/Savemart												
North	P/P	40	N/A	N/A	1	0	0	0	2	1	0	0
South	P/P	40	N/A	N/A	0	0	0	0	0	0	0	0
East	Protected	25	N/A	N/A	1	1	0	0	1	1	0	0
West	Protected	25	N/A	N/A	0	0	0	0	0	0	0	0

Attachment 1

Protected/Permissive Signal Evaluation
7/1/05 - 6/30/06

	Left-turn Phasing	Posted Speed	2001-2002*		2002-2003		2003-2004		2004-2005		2005-2006	
			Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn
Oakdale/Wylie												
North	P/P	40	10	3	1	0	5	2	3	2	6	2
South	P/P	40			3	0	5	1	3	0	6	2
East	Protected	25	5	2	3	0	2	0	3	0	3	0
West	Protected	25			0	0	2	0	0	0	0	0
Orangeburg/Carver												
North	P/P	35	14	3	2	0	1	0	4	1	0	0
South	P/P	35			4	1	3	1	4	1	1	0
East	P/P	40	9	5	2	1	4	0	1	0	1	0
West	P/P	40			1	1	1	0	2	1	2	0
Orangeburg/Claus												
North	Protected	45	4	0	1	0	1	1	2	1	2	0
South	Protected	45			1	1	0	0	5	1	1	0
East	P/P	35	2	1	2	0	2	0	1	1	1	0
West	P/P	25			3	0	0	0	1	0	1	1
Orangeburg/Coffee												
North	Protected	40	28	11	6	3	13	8	6	2	4	1
South	Protected	40			7	3	15	6	8	5	2	1
East	Protected	40	10	2	8	0	8	1	6	0	9	2
West	Protected	35			4	0	5	1	2	0	7	2
Orangeburg/College												
North	P/P	35	5	3	5	0	2	0	1	0	2	2
South	P/P	35			1	0	0	0	0	0	1	0
East	P/P	40	7	1	2	0	5	2	3	1	4	1
West	P/P	40			2	0	5	2	2	1	4	3
Orangeburg/Oakdale												
North	Protected	40	14	10	8	4	9	4	7	5	12	8
South	Protected	40			11	7	11	6	14	8	12	7
East	P/P	35	11	3	6	0	6	0	4	0	5	3
West	P/P	35			6	0	5	0	3	1	4	2
Orangeburg/Sunrise												
North	P/P	30	6	0	3	0	5	0	5	1	1	0
South	P/P	30			5	0	1	0	3	1	1	0
East	P/P	40	8	0	9	1	2	0	6	2	2	0
West	P/P	40			5	1	4	1	0	0	0	0

Attachment 1

Protected/Permissive Signal Evaluation
7/1/05 - 6/30/06

	Left-turn Phasing	Posted Speed	2001-2002*		2002-2003		2003-2004		2004-2005		2005-2006	
			Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn
Pelandale/Carver												
North	P/P	35	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2	0
South	P/P	45	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	0	0
East	Protected	50	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2	0
West	Protected	50	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1	0
Pelandale/Chapman												
North	Protected	25	N/A	N/A	0	0	0	0	0	0	0	0
South	Protected	25	N/A	N/A	1	1	1	0	0	0	0	0
East	P/P	45	N/A	N/A	0	0	1	0	3	3	1	0
West	P/P	45	N/A	N/A	2	0	3	2	3	2	0	0
Pelandale/Sisk												
North	Protected	45	N/A	N/A	2	1	6	0	2	0	0	0
South	Protected	45	N/A	N/A	0	0	3	1	2	0	3	0
East	Protected	45	N/A	N/A	9	5	12	5	11	4	10	3
West	Protected	45	N/A	N/A	10	2	9	4	9	5	11	7
Prescott/Chrysler												
North	P/P	35	N/A	N/A	0	0	1	1	0	0	0	0
South	P/P	35	N/A	N/A	0	0	1	0	0	0	1	0
East	Protected	25	N/A	N/A	0	0	1	0	1	1	2	0
West	Protected	25	N/A	N/A	0	0	0	0	0	0	0	0
Prescott/Rumble												
North	P/P	35	9	5	4	2	8	5	2	2	1	0
South	P/P	40			5	2	2	1	6	4	3	1
East	P/P	30	1	1	0	0	1	0	2	0	1	0
West	P/P	30			2	0	3	1	4	1	1	0
Prescott/Snyder												
North	P/P	40	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2	2
South	P/P	40	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	3	1
East	Protected	30	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2	0
West	Protected	30	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	0	0
Scenic/Bodem												
North	Permissive	25	N/A	N/A	0	0	1	0	1	1	2	0
South	Permissive	25	N/A	N/A	6	1	4	1	2	0	2	1
East	P/P	35	N/A	N/A	14	5	15	3	10	2	1	1
West	P/P	35	N/A	N/A	7	5	8	4	13	3	8	2

Attachment 1

Protected/Permissive Signal Evaluation
7/1/05 - 6/30/06

	Left-turn Phasing	Posted Speed	2001-2002*		2002-2003		2003-2004		2004-2005		2005-2006	
			Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn
Scenic/Rose												
North	Protected-Split	30	2	0	0	0	1	1	1	0	0	0
South	Protected-Split	30			0	0	0	0	0	0	0	0
East	P/P	40	3	1	1	0	2	0	4	0	2	0
West	P/P	40			0	0	2	0	1	0	2	0
Sisk/Earl												
North	P/P	45	N/A	N/A	0	0	1	0	0	0	0	0
South	P/P	45	N/A	N/A	1	0	0	0	1	0	1	0
East	Protected	25	N/A	N/A	1	0	0	0	0	0	0	0
West	Protected	25	N/A	N/A	0	0	0	0	0	0	0	0
Sisk/Target												
North	P/P	45	3	1	1	0	3	1	1	0	2	1
South	P/P	45			5	5	2	1	4	2	2	2
East	Protected	25	0	0	0	0	1	1	0	0	0	0
West	Protected	25			0	0	1	0	0	0	1	0
Sisk/Vintage												
North	P/P	45	3	1	0	0	1	0	2	0	2	0
South	P/P	45			1	1	2	2	1	1	4	3
East	Permissive	25	4	2	0	0	2	1	0	0	0	0
West	Permissive	25			0	0	0	0	0	0	1	0
Standiford/Carver												
North	P/P	35	6	1	2	1	6	2	1	1	3	1
South	P/P	35			6	0	1	1	1	1	2	1
East	Protected	40	15	4	4	2	6	1	6	2	8	3
West	Protected	40			3	1	5	3	10	6	10	2
Standiford/Colonial												
North	Permissive	40	N/A	N/A	N/A	N/A	1	0	2	0	0	0
South	Permissive	40	N/A	N/A	N/A	N/A	0	0	0	0	0	0
East	P/P	25	N/A	N/A	N/A	N/A	1	1	5	0	5	0
West	P/P	25	N/A	N/A	N/A	N/A	4	1	2	0	2	0
Standiford/Conant												
North	Permissive	25	0	0	0	0	1	0	2	1	1	0
South	Permissive	25			2	1	0	0	1	0	1	0
East	Protected	45	9	3	8	4	1	0	5	0	1	0
West	Protected	45			5	5	3	0	1	0	3	0

Attachment 1

Protected/Permissive Signal Evaluation
7/1/05 - 6/30/06

	Left-turn Phasing	Posted Speed	2001-2002* Total	2001-2002* Left-turn	2002-2003 Total	2002-2003 Left-turn	2003-2004 Total	2003-2004 Left-turn	2004-2005 Total	2004-2005 Left-turn	2005-2006 Total	2005-2006 Left-turn
Standiford/Prescott												
North	Protected	40	8	4	8	1	6	1	11	4	8	4
South	Protected	40			7	2	6	2	11	6	9	3
East	Protected	45	17	3	4	0	3	0	6	0	8	0
West	Protected	40			5	1	7	0	9	0	6	1
Standiford/Shawnee												
North	Permissive	25	1	0	0	0	0	0	0	0	1	0
South	Premissive	25			0	0	0	0	0	0	0	0
East	P/P	40	1	1	4	1	6	1	1	0	2	0
West	P/P	40			1	0	3	0	2	1	2	0
Standiford/Tully												
North	Protected	35	9	3	9	1	11	1	6	4	10	0
South	Protected	45			3	0	6	0	5	0	6	1
East	Protected	40	22	8	18	4	13	7	13	4	7	2
West	Protected	40			12	3	14	2	19	11	18	5
Sylvan/Dragoo												
North	Permissive	25	1	0	0	0	1	0	0	0	0	0
South	Permissive	25			1	0	1	1	0	0	2	0
East	P/P	40	6	1	4	1	1	1	4	1	1	1
West	P/P	40			3	2	1	0	2	1	0	0
Sylvan/Oakdale												
North	Protected	45	19	13	19	12	7	2	3	1	3	0
South	Protected	45			8	4	5	0	3	0	2	1
East	P/P	40	14	5	8	2	10	6	7	3	6	1
West	P/P	40			4	3	4	2	4	2	12	5
Tully/Bowen												
North	P/P	35	N/A	N/A	2	1	2	0	0	0	0	0
South	P/P	35	N/A	N/A	3	1	3	1	2	2	0	0
East	Permissive	25	N/A	N/A	0	0	1	0	2	0	2	1
West	Permissive	25	N/A	N/A	1	1	2	0	1	0	4	1
Tully/Coldwell												
North	P/P	35	N/A	N/A	N/A	N/A	N/A	N/A	0	0	5	1
South	P/P	35	N/A	N/A	N/A	N/A	N/A	N/A	0	0	4	1
East	Permissive	25	N/A	N/A	N/A	N/A	N/A	N/A	2	0	1	0
West	Permissive	25	N/A	N/A	N/A	N/A	N/A	N/A	3	0	1	0

Attachment 1

Protected/Permissive Signal Evaluation
7/1/05 - 6/30/06

	Left-turn Phasing	Posted Speed	2001-2002*		2002-2003		2003-2004		2004-2005		2005-2006	
			Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn	Total	Left-turn
Tully/Granger												
North	P/P	35	N/A	N/A	N/A	N/A	2	0	0	0	1	1
South	P/P	35	N/A	N/A	N/A	N/A	1	1	0	0	0	0
East	Permissive	25	N/A	N/A	N/A	N/A	0	0	0	0	0	0
West	Permissive	35	N/A	N/A	N/A	N/A	0	0	0	0	0	0
Tully/Mt. Vernon												
North	P/P	35	N/A	N/A	N/A	N/A	N/A	N/A	2	0	4	2
South	P/P	35	N/A	N/A	N/A	N/A	N/A	N/A	3	1	4	1
East	Permissive	30	N/A	N/A	N/A	N/A	N/A	N/A	0	0	1	0
West	Permissive	30	N/A	N/A	N/A	N/A	N/A	N/A	1	0	2	0
Tully/Orangeburg												
North	P/P	35	11	2	3	0	1	1	1	0	4	1
South	P/P	35			5	2	4	1	4	0	5	1
East	P/P	40	7	3	1	1	1	0	6	3	5	0
West	P/P	40			2	0	4	1	5	1	5	1
Tully/Roseburg												
North	P/P	35	N/A	N/A	4	0	3	0	1	0	1	0
South	P/P	35	N/A	N/A	1	0	2	0	2	1	5	1
East	Permissive	30	N/A	N/A	1	0	2	2	2	1	0	0
West	Permissive	30	N/A	N/A	2	0	1	0	0	0	2	0
Tully/Rumble												
North	P/P	35	N/A	N/A	N/A	N/A	2	0	5	0	5	0
South	P/P	35	N/A	N/A	N/A	N/A	0	0	2	0	3	0
East	Permissive	30	N/A	N/A	N/A	N/A	5	2	3	0	1	0
West	Permissive	30	N/A	N/A	N/A	N/A	5	2	4	3	3	0
9th/I												
North	P/P	25	N/A	N/A	4	0	2	2	5	1	1	1
South	P/P	25	N/A	N/A	6	1	7	1	6	1	5	2
East	Permissive	25	N/A	N/A	2	1	3	1	5	0	8	2
West	Permissive	25	N/A	N/A	6	2	5	1	3	1	10	2
9th/K												
North	P/P	35	6	3	2	0	1	0	1	1	2	0
South	P/P	35			4	0	2	0	3	1	4	3
East	Protected	25	6	0	3	0	0	0	0	0	1	0
West	Protected	25			0	0	3	1	0	0	0	0

Attachment 1

Protected/Permissive Signal Evaluation
7/1/05 - 6/30/06

	Left-turn Phasing	Posted Speed	2001-2002* Total	2001-2002* Left-turn	2002-2003 Total	2002-2003 Left-turn	2003-2004 Total	2003-2004 Left-turn	2004-2005 Total	2004-2005 Left-turn	2005-2006 Total	2005-2006 Left-turn
9th/L												
North	P/P	35	5	1	4	0	4	2	0	0	2	2
South	P/P	35			2	0	4	0	2	0	3	0
East	Protected-Split	25	4	0	0	0	2	0	1	1	1	0
West	Protected-Split	25			2	0	1	0	2	1	2	0

* Signal collision data for northbound includes southbound collisions. Collision data for eastbound includes westbound collisions.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-088

A RESOLUTION ACCEPTING THE ROBERTSON ROAD SANITARY SEWER IMPROVEMENTS AND PROVIDING SANITARY SEWER SERVICE FOR STANISLAUS COUNTY INFILL AREA KNOWN AS ROBERTSON ROAD NEIGHBORHOOD

WHEREAS, Stanislaus County administered the design and construction of the Robertson Road Sanitary Sewer System, and

WHEREAS, the City of Modesto has inspected and approved the facilities constructed, and

WHEREAS, the City of Modesto collection system can service the Robertson Road Neighborhood Infill Area defined as bordered by Robertson Road on the north, John Street on the south, Carpenter Road on the west, and Hays Street on the east, and

WHEREAS, the Robertson Road Neighborhood requires a positive sewer service to replace aging residential septic systems,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Robertson Road Sanitary Sewer Improvements and will provide Sanitary Sewer Service for the Stanislaus County Infill Area known as Robertson Road Neighborhood.

BE IT FURTHER RESOLVED that the Council hereby directs City staff to provide for the operation and maintenance of the Robertson Road Sanitary Sewer System.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-089

A RESOLUTION ACCEPTING THE WORK BY RODGERS CONSTRUCTION AND ENGINEERING COMPANY, INC., FOR THE PROJECT TITLED "SCENIC DRIVE AND BODEM STREET RIGHT TURN LANE" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $197,684.36.

WHEREAS, a report has been filed by the Public Works Director that the project titled "Scenic Drive and Bodem Street Right Turn Lane" has been completed by Rodgers Construction and Engineering Company, Inc., in accordance with the contract agreement dated April 5, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the project titled "Scenic Drive and Bodem Street Right Turn Lane" is hereby accepted as complete from said contractor, Rodgers Construction and Engineering Company, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $197,684.36, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-090

A RESOLUTION APPROVING A CONSULTANT SERVICES AGREEMENT WITH O'DELL ENGINEERING, INC., IN THE AMOUNT OF $15,658.82 FOR LANDSCAPE DESIGN SERVICES FOR PREPARATION OF CONSTRUCTION DOCUMENTS FOR LANDSCAPING AT THE SYLVAN AVENUE PEDESTRIAN OVERCROSSING PROJECT, AND AUTHORIZING THE COMMUNITY FACILITIES DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on October 24, 2006, by Resolution No. 2006-678, the City Council awarded a construction contract in the amount of $1,556,375.00 to MCM Construction, Inc., to construct the Sylvan Avenue Pedestrian Overcrossing, and

WHEREAS, the Village One Facilities Master Plan was updated in May 2003 and contains a prioritization list for construction projects which contains all of the infrastructure projects that remain to be built in Village One, including the Pedestrian Overcrossing, and

WHEREAS, the Pedestrian Overcrossing will serve the James C. Enochs High School, and is among the improvement projects in the Village One Priority 1 list, and

WHEREAS, Chapter 2 of the Mitigated Negative Declaration for the Sylvan Avenue Pedestrian Overcrossing states that landscaping is part of the Pedestrian Overcrossing project, and

WHEREAS, on January 25, 2005, the City Council adopted Resolution No. 2005-50 approving an On-Call Landscape Architectural Service Provider List which list is valid from January 2005 through January 2008, and

WHEREAS, City staff has selected from the On-Call Landscape Architectural Service Provider List, O'Dell Engineering, Inc., to complete professional landscape architectural services for landscaping at the Sylvan Pedestrian Overcrossing, and

WHEREAS, City staff recommends the District execute an Agreement with O'Dell Engineering, Inc., in the amount of $15,658.82 for landscape design of landscaping at the Sylvan Avenue Pedestrian Overcrossing project, and

WHEREAS, the current budgeted amount of $15,658.82 for the Agreement is available in the CIP Account 2691-020-Q310 "Pedestrian Overcrossing" to cover the cost for these services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds the potential impacts of this project have been adequately addressed within the context to a previously completed and certified Mitigated Negative Declaration. No changes have been proposed in this project subsequent to the just referenced action, which would require important revisions of the environmental document. No substantial changes have occurred in the circumstances under which the project is undertaken which would require such changes. Pursuant to Section 15162 of the CEQA Guidelines, no new environmental review need be completed, and this subsequent activity is entirely consistent with the anticipated project(s) that are analyzed in the previous environmental determination.

BE IT FURTHER RESOLVED that the Council hereby approves an Agreement between City of Modesto Communities Facilities District and O'Dell Engineering, Inc., for Landscape Design at the Sylvan Avenue Pedestrian Overcrossing in the amount of $15,658.82.

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-091

A RESOLUTION APPROVING THE PROJECT, INCLUDING PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "ROSELLE AVENUE AT FLOYD AVENUE IMPROVEMENTS," ACCEPTING THE BID AND APPROVING A $2,819,799.75 CONTRACT WITH TEICHERT CONSTRUCTION, FOR THE PROJECT TITLED, "ROSELLE AVENUE AT FLOYD AVENUE IMPROVEMENTS," AND AUTHORIZING THE COMMUNITY FACILITIES DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, plans and specifications have been prepared for the project titled "Roselle Avenue at Floyd Avenue Improvements" and City staff recommends approval by the City Council, and

WHEREAS, the bids received for "Roselle Avenue at Floyd Avenue Improvements" were opened at 11:00 a.m. on January 9, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $2,819,799.75 received from Teichert Construction, be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the "Roselle Avenue at Floyd Avenue Improvements" project, including the plans and specifications.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of Teichert Construction, in the amount of $2,819,799.75, and hereby awards Teichert Construction, the contract titled "Roselle Avenue at Floyd Avenue Improvements."

BE IT FURTHER RESOLVED that the Community Facilities District Administrator, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-092

A RESOLUTION FINDING THAT THE PROJECT IS WITHIN THE SCOPE OF THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE VILLAGE ONE SPECIFIC PLAN (SCH NO. 90020181).

WHEREAS, on May 24, 1994, the City Council of the City of Modesto certified a Supplemental to the Village One Program Environmental Impact Report (EIR) (SCH# 90020181), this supplement updated and modified the original EIR, and

WHEREAS, the Public Works Department, by Initial Study, EA/PW 2006-09, reviewed the proposed Roselle Avenue at Floyd Avenue Improvements Project, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the EIR; and further, that no new or additional mitigation measures or alternatives may be required, and that, therefore, the proposed project is within the scope of the project covered by the EIR, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the EIR and whether the subsequent project was described in the EIR as being within the scope of the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed Roselle Avenue at Floyd Avenue Improvements Project, a copy of which is attached hereto as **Exhibit "A",** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

A. The proposed Roselle and Floyd Intersection Control Road Widening Project is within the scope of the Village One Program EIR as updated by the 1994 Final Supplemental EIR (SCH No. 90020181), which analyzed the potential impacts of build out of Village One, including roadways in this area.

B. No additional significant environmental effects will occur as a result of the Roselle and Floyd Intersection Control Road Widening Project that were not previously examined in the Village One Program EIR as updated by the 1994 Final Supplemental EIR.

C. No new mitigation measures or alternatives will be required as a result of the proposed Roselle and Floyd Intersection Control Road Widening Project that were not previously considered in the Village One Program EIR as updated by the 1994 Final Supplemental EIR.

D. There are no specific features unique to the Roselle and Floyd Intersection Control Road Widening Project that requires project specific mitigation measures. All certified mitigation measures identified in the EIR would apply city wide, including this project as appropriate.

E. This initial study provides substantial evidence to support findings A, B, C, and D above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Public Works Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Determination:
Floyd Avenue and Roselle Avenue Improvements are within the Scope of the Village One Specific Plan Program Environmental Impact Report as supplemented (SCH #90020181) and with Addenda for the Village One Storm Drainage Master Plan Update and the Facilities Master Plan Update.

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353

Prepared by:

Paul Hom, Project Coordinator
City of Modesto
Capital Improvement Services
209/571-5175

September 25, 2006

WRITTEN CHECKLIST

EA/PW No. 2006-09

I. PURPOSE

This written checklist, pursuant to CEQA Guidelines Section 15168 (C) (4), serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR. Based on a review of the project and Section 15162(a), this determination would permit the lead agency (City of Modesto) to approve the activity as being within the scope of the project covered by the Program EIR. This determination includes whether any new environmental document is required beyond the adopted Village One Specific Plan Program EIR (SCH# 90020181) for the proposed Floyd Avenue and Roselle Avenue Improvements (project).

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan. This Program EIR analyzed the impacts of build-out of the Village One Specific Plan, which includes the area in which this project is proposed. Subsequently, on May 24, 1994, the City Council certified a Supplemental to the Village One Program EIR. This supplement updated and modified the original EIR.

In Addition, on May 6, 2003, the City Council determined that the environmental effects of the Village One Facilities Master Plan Update (May 2003) and the Storm Drainage Master Plan Update projects have been addressed by the Village One Program EIR, as amended by the Supplemental EIR or are less than significant. Addenda for the Village One Facilities Master Plan Update (May 2003) and the Storm Drainage Master Plan Update were then prepared and certified by the City Council.

The 1994 Supplemental EIR that amended and superseded the 1990 Program EIR is the document reviewed for projects within the Village One Specific Plan area. Where appropriate feasible mitigation measures developed in the Supplement to the program EIR shall be incorporated into the proposed project as outlined in Section V of this Checklist.

II. PROJECT INFORMATION

1. **Project Title:**	Floyd Avenue and Roselle Avenue Improvements
2. **Lead Agency Name and Address:**	City of Modesto, P.O. Box 642, Modesto, CA 95353
3. **Contact Person and Phone Number:**	Paul Hom, Project Coordinator Modesto Capital Improvement Services 209/571-5175
4. **Project Location:**	Floyd Avenue between Grouse Crossing Way and Fine Avenue, and Roselle Avenue between Kodiak Drive and Belharbour Drive, Modesto, California (see attached Exhibit A)
5. **Project Sponsor's Name and Address:**	City of Modesto – Community Facilities District P.O. Box 642 Modesto, CA 95353
6. **General Plan Designation:**	The General Plan land use designation is Village Residential (VR)
7. **Zoning:**	Specific Plan-Overlay (SP-O) Zone

8. **Description of Project:** Pursuant to the General Plan and adopted Village One Specific Plan, the City of Modesto will construct road improvements to Floyd Avenue between Grouse Crossing Way and Fine Avenue, and Roselle Avenue between Kodiak Drive and Belharbour Drive implementing these Plans and as anticipated therein. These improvements include construction of a two-lane roundabout at the intersection of Roselle and Floyd Avenues. The roundabout will have a 120-foot diameter from curb to curb, with an inner landscaped area. Splitter islands will be located on all four approaches to guide vehicles into the roundabout, and the posted speed limit within the roundabout area will be 15 mph. Completion of this project is in specific furtherance of Mitigation Measure 7 of the Village One Supplemental EIR, which calls for completion of 4-lane improvements on Roselle Avenues. Mitigation Measure 14 calls for improvement of the Roselle/Floyd intersection to provide adequate capacity for projected traffic; the roundabout proposed at this location has been determined by the City's Traffic Engineer to provide the required capacity (memo dated December 19, 2005 from Firoz Vohra, Deputy Director of Public Works). Improvements to Floyd and Roselle will be to the City's 4-lane standard as specified in the Village One Facilities Master Plan, to include two northbound and two southbound lanes and a 16-foot-wide landscaped median on Roselle, and two eastbound and two westbound lanes and a 16-foot-wide landscaped median on Floyd. Bus turnouts will be included.

9. **Surrounding Land Uses and Setting:** The Village One Specific Plan Area is over half built, as planned and approved by the 1990 Village One Specific Plan. The project area is adjoined on the west by single-family subdivisions. On the north east corner is multi-family, the south east corner is commercial, with single-family subdivisions to the east.

10. **Other Public Agencies whose Approval Is Required:** None.

III. DETERMINATION:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15162 the following is true for the proposed project:

(1) Major revisions to the Village One Program EIR as amended by the 1994 Final Supplemental EIR (SCH No. 90020181), with Addenda for the Village One Storm Drainage Master Plan and the Village One Facilities Master Plan Update, are not required because the project will not involve new significant environmental effects or increase severity of effects previously identified, and

(2) Major revisions to the Village One Program EIR as amended by the 1994 Final Supplemental EIR, with Addenda for the Village One Storm Drainage Master Plan and the Village One Facilities Master Plan Update, are not required because no substantial changes to circumstances have occurred that involve new significant environmental effects or increase severity of effects previously identified, and

(3) No new information of substantial importance that was not known has become available that shows:

a. one or more significant effects is not discussed in the Village One Program EIR as amended by the 1994 Final Supplemental EIR, with Addenda for the Village One Storm Drainage Master Plan and the Village One Facilities Master Plan Update,

b. identified significant effects will be more severe,

c. previously infeasible mitigation measures are now feasible,

d. project proponents have declined to adopt mitigation measures that would substantially reduce significant effects.

(4) Because no new significant effects have been identified and no new mitigation is required for the project, the environmental effects of the operation of the proposed project were covered by the Village One Program EIR as updated by the 1994 Final Supplemental EIR, with Addenda for the Village One Storm Drainage Master Plan and the Village One Facilities Master Plan Update. Therefore, pursuant to CEQA Section 15168 (C) (4) no new environmental document is required.

(5) Therefore, the Floyd Avenue and Roselle Avenue Improvements project is within the scope of the Village One Program EIR as updated by the 1994 Final Supplemental EIR, with Addenda for the Village One Storm Drainage Master Plan and the Village One Facilities Master Plan Update.

_____

Project Manager Date

IV. PROJECT EVALUATION:

The following written Checklist based on Appendix G of the CEQA Guidelines serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15168 (c) (4) to determine whether the environmental effects of the operation were covered in the Program EIR.

I.	**AESTHETICS.** Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
a.	Have a substantial adverse effect on a scenic vista?				
b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	☐	☐	☐	☑
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☑
d.	Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	☐	☐	☐	☑

Aesthetic and visual impacts are analyzed on pages III-100 through III-103 of the 1994 Supplement.

Responses to Checklist Questions

a,b. The Village One Specific Plan program EIR found that, as Village One is built, it will eliminate views of the valley and the distant mountains from adjacent areas and reduce the area's visual open space. However, the program EIR found the effects of Village One Development on scenic vistas and resources to be less than significant because views from the project area are minimal and there are no scenic resources in the area. The proposed Floyd Avenue and Roselle Avenue Improvements project would not change the extent or nature of construction in the specific plan area, or cause any other changes in the project area. Impacts on scenic vistas and resources would therefore remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that Village One would have a less-than-significant impact on the visual character of the area. The proposed Floyd Avenue and Roselle Avenue Improvements project would not change the design or layout of the construction proposed under the Village One Specific Plan. For this reason, impacts on the visual character of the area would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

d. The proposed Floyd Avenue and Roselle Avenue Improvements project will incorporate the normal street lighting for a street of this type as found throughout the community and as specified in the City of Modesto Standard Specifications. This lighting is consistent with that studied in the Village One Specific Plan program EIR and would not change the extent or nature of construction in the specific plan area, or cause any other changes in the project area. For this reason, impacts associated with additional light and glare would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
II.	**AGRICULTURAL RESOURCES.** In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:				
a.	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☑
b.	Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?	☐	☐	☐	☑
c.	Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	☐	☐	☐	☑

Impacts on agricultural resources are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that approximately 670 acres of land designated as Prime Farmland and 588 acres of land designated as Unique Farmland would be lost as a result of the Village One project. This impact was determined to be significant and not mitigable. The City made a statement of overriding considerations when it certified the 1994 Supplement. The proposed Floyd Avenue and Roselle Avenue Improvements project would not affect this finding because the project area would remain the same. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR presented information showing that any Williamson Act contracts in the project area would be automatically cancelled on annexation of the land to the City of Modesto, which has occurred, or would expire within 10 years of the time the original program EIR was prepared. The last Williamson Act contract covering land in the project area has expired. There are now no lands in the project area under Williamson Act contract. The project area has also been rezoned consistent with the specific plan, and no lands in the project area are now zoned for agricultural use. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR identified a potential land use conflict between new residential uses in the specific plan area and adjacent agricultural uses. Such conflicts can lead to conversion of adjacent farmlands to other uses. The program EIR proposed mitigation measures for this potential impact that would reduce the impact's significance, although the EIR noted that the mitigation measure might not fully mitigate the impact. No additional mitigation measures are available for this impact. The proposed Floyd Avenue and Roselle Avenue Improvements project would not affect this finding because the project area and proposed land use would remain the same. There would be no additional impact. No mitigation is required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
III. AIR QUALITY. When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				

a.	Conflict with or obstruct implementation of the applicable air quality plan?	❑	❑	❑	☑
b.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	❑	❑	❑	☑
c.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	❑	❑	❑	☑
d.	Expose sensitive receptors to substantial pollutant concentrations?	❑	❑	❑	☑
e.	Create objectionable odors affecting a substantial number of people?	❑	❑	❑	☑

Impacts on air quality are analyzed on pages III-45 through III-54 of the 1994 Supplement.

Responses to Checklist Questions

a., b. The Village One Specific Plan program EIR found that air pollution from project-related construction and construction traffic, project-related industrial/business park and urban area traffic, and fireplaces and wood stoves in planned residential areas would violate air quality standards and contribute to an existing air quality violation. Construction activities would temporarily increase TSP and PM10 standards in the project vicinity and could result in violation of the state and federal 24-hour PM10 standards in the project vicinity. Construction traffic emissions would contribute to violation of the state and federal 8-hour carbon monoxide (CO) and particulate matter (PM10) standards and the federal ozone standard in the Modesto Urban Area and the San Joaquin Valley Air Basin. Urban traffic pollution would contribute to violations of the state ozone, CO, and PM10 standards in the Modesto Urban Area and San Joaquin Valley Air Basin. Residential pollution would contribute to violations of the pollutant standard index in the Modesto Urban Area. Partial mitigation for these impacts is included in the program EIR, and the City of Modesto adopted a statement of overriding consideration for each impact. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the amount of development and construction in the project area, so trips generated by the project would not be affected and the types of land uses would not change. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that air pollutant emissions associated with traffic at build-out of Village One would exacerbate the existing ozone, PM10, and CO violations in the Modesto area and cause a significant cumulative impact. Partial mitigation for

these emissions is included in the 1994 supplement to the program EIR (Mitigation Measure # 2) and the City of Modesto made a statement of overriding consideration for each impact. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the amount of traffic associated with build-out of Village One or the types of land uses, so trips generated by the project would not be affected. There would be no additional impact. No additional mitigation is required.

d. The Village One Specific Plan program EIR found that PM10 generated during construction would aggravate the respiratory problems of people living and working nearby, therefore exposing sensitive receptors in the area to pollutant concentrations and causing a significant impact. However, the program EIR outlines mitigation measures that will be implemented to reduce the impact to an acceptable level (Mitigation Measure #40). The proposed Floyd Avenue and Roselle Avenue Improvements would not change the level of construction emissions. There would be no additional impact. No additional mitigation is required.

e. The Floyd Avenue and Roselle Avenue Improvements project does not contain any components that would create odors. The proposed Floyd Avenue and Roselle Avenue Improvements would not change planned uses of the project area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IV.	**BIOLOGICAL RESOURCES.** Would the project:				
a.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☑
b.	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☑
c.	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☑

d.	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	❑	❑	❑	☑
e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	❑	❑	❑	☑
f.	Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	❑	❑	❑	☑

Impacts on biological resources are analyzed on pages III-68 through III-79 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that development within the Village One area could result in the loss of foraging habitat for Swainson's hawk, a state-listed threatened species, but found that mitigation measures identified in the program EIR would reduce the impact to a less-than-significant level. The proposed Floyd Avenue and Roselle Avenue Improvements would not change project area boundaries. Further, the area to be developed is adjacent to an existing roadway and is heavily disturbed; and has no current utility as foraging habitat. There would be no additional impact. No mitigation is required. A Swanson Hawk survey was completed in conjunction with the proposed commercial development to the southeast (copy on file), which confirms that the area is not in use as a foraging habitat.

b. The Village One Specific Plan program EIR did not find that any riparian habitat or other designated sensitive natural community was present in the Floyd Avenue and Roselle Avenue Improvements area, and so found that the project would have a less-than-significant impact. The proposed Floyd Avenue and Roselle Avenue Improvements would not change project area boundaries. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that two areas indicated as "drainage areas with wetland vegetation", designated in Figure 34, page 4.9-2 of the Program EIR, could result in the loss of lands that might be classified as wetlands by the U.S. Army Corps of Engineers. Floyd Avenue and Roselle Avenue Improvements are not located in one of those two areas and would not change the project area boundaries or the areas that would be disturbed. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not identify any migratory corridors in the Floyd Avenue and Roselle Avenue Improvements area, nor did it find that the project would interfere with the movement of any species. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area boundaries. There would be no impact. No mitigation is required.

e., f. No local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans apply to the Village One Specific Plan area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
V.	**CULTURAL RESOURCES.** Would the project:				
a.	Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	☐	☐	☐	☑
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	☐	☐	☐	☑
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☑
d.	Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☑

Responses to Checklist Questions

a.–d. Impacts on cultural resources resulting from Village One (e.g., from construction of associated infrastructure) are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The report concluded that there are no known historic, archaeological, or paleontological resources in the Village One Specific Plan area. Based on the results of this report, (Cultural and Historic Resources Report, page 4 & 5, Exhibit D) it was determined that the likelihood that Floyd Avenue and Roselle Avenue Improvements would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed Floyd Avenue and Roselle Avenue Improvements would not change the locations or types of construction in the project area nor the boundaries of the project area. Construction of the roadway will not result in any effects on historic structures. Since no archaeological, or

paleontological resources were found in the previous document to be located in the project area, and since the proposed project would not have a significant impact on historic structures, there would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VI.	**GEOLOGY AND SOILS.** Would the project:				
a.	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
	1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☑
	2. Strong seismic groundshaking?	☐	☐	☐	☑
	3. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☑
	4. Landslides?	☐	☐	☐	☑
b.	Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☑
c.	Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☑
d.	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☑
e.	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?	☐	☐	☐	☑

Impacts associated with geology and soils are analyzed on pages III-105 through III-108 of the 1994 Supplement.

Responses to Checklist Questions

a.–d. The program EIR, as supplemented, found that the project area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures were required. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan included provisions for the project to be served by public sewers. No septic tanks or alternative wastewater systems were proposed. The proposed Floyd Avenue and Roselle Avenue Improvements project would not change the proposed method of wastewater disposal. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VII.	**HAZARDS AND HAZARDOUS MATERIALS.** Would the project:				
a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☑
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☑
c.	Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☑
d.	Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☑
e.	Be located within an airport land use plan area or, where such a plan has not been adopted,	☐	☐	☐	☑

	be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?				
f.	Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?	❑	❑	❑	☑
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	❑	❑	❑	☑
h.	Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	❑	❑	❑	☑

Impacts associated with hazards and hazardous materials are analyzed on pages III-80 through III-94 and III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a.–c. The Village One Specific Plan does not allow any land uses that would use hazardous materials. The proposed Floyd Avenue and Roselle Avenue Improvements would not change land uses or project area boundaries. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR, as supplemented, found no hazardous materials were stored at the roadway site. No significant impacts were identified, and no mitigation measures were required. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan program EIR found that the roadway would not be located in an airport land use plan area or within 2 miles of a public airport. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area boundaries. There would be no impact. No mitigation is required.

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the eastern border of the Village One project area. However, take-offs and landings were found to take place parallel to and outside the area's border, and flight patterns are generally situated to the east of the project area. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area boundaries. There would be no additional impact. No mitigation is required.

g. Since the adoption of the Village One Specific Plan, the Modesto General Plan has been updated to include development of Village One consistent with the specific plan. City emergency plans are developed with the assumption that the Village One Specific Plan will be implemented. The proposed Floyd Avenue and Roselle Avenue Improvements would not change construction, land use, or other physical attributes of Village One. There would be no additional impact. No mitigation is required.

h. The Village One project is located in an area of the City of Modesto planned for build-out of an urban neighborhood. Currently, less than 50% of the project area remains undeveloped, with a covering of dry brush and vegetation. The potential for wild land fires is low, and this potential will decrease as build-out continues. Adoption of the proposed Floyd Avenue and Roselle Avenue Improvements would not change the schedule or amounts of development. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VIII.	**HYDROLOGY AND WATER QUALITY.** Would the project:				
a.	Violate any water quality standards or waste discharge requirements?	❑	❑	❑	☑
b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	❑	❑	❑	☑
c.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?	❑	❑	❑	☑
d.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?	❑	❑	❑	☑
e.	Create or contribute runoff water that would exceed the capacity of existing or planned	❑	❑	❑	☑

	stormwater drainage systems or provide substantial additional sources of polluted runoff?				
f.	Otherwise substantially degrade water quality?	❑	❑	❑	☑
g.	Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	❑	❑	❑	☑
h.	Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	❑	❑	❑	☑
i.	Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	❑	❑	❑	☑
j.	Contribute to inundation by seiche, tsunami, or mudflow?	❑	❑	❑	☑

Impacts associated with hydrology are analyzed on pages III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR did not find that the Village One project would violate any water quality standards or waste discharge requirements. The proposed Floyd Avenue and Roselle Avenue Improvements would not change water use or discharge associated with the Village One project. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that the Village One project might interfere with local groundwater recharge. However, the impact was found to be less than significant because the project area is not a major groundwater recharge area and the project includes a recharge/discharge plan for disposal of storm-water runoff and recharge of groundwater. In Addition, in 2003 two addenda to the Village One program EIR were prepared and certified. One related to the Facilities Master Plan Update and the other related to the Storm Drainage Master Plan Update.

   The proposed Floyd Avenue and Roselle Avenue Improvements would not change the amount of impervious surface in the project area or the proposed storm drain facilities. There would be no additional impact. No additional mitigation is required.

c.–e. The Village One Specific Plan program EIR found that the Village One project will substantially alter the existing drainage pattern of the area but, because the project will incorporate an urban storm drain system, will not result in any erosion impacts. The proposed Floyd Avenue and Roselle

Avenue Improvements would not change the amount of impervious surface or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

f. The Village One Specific Plan program EIR did not find that the Village One project would otherwise substantially degrade water quality. The proposed Floyd Avenue and Roselle Avenue Improvements would not change water use or discharge from that already determined. There would be no additional impact. No mitigation is required.

g.–i. According to the Village One Specific Plan program EIR, the Village One project is not situated in a 100-year flood hazard area or downstream from a levee or dam. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area boundaries. There would be no impact. No mitigation is required.

j. The Village One project area is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area boundaries. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IX.	**LAND USE AND PLANNING.** Would the project:				
a.	Physically divide an established community?	☐	☐	☐	☑
b.	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☑
c.	Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☑

Impacts associated with land use and planning are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

a. The proposed Floyd Avenue and Roselle Avenue Improvements would not result in any physical changes to the environment beyond those proposed as a part of the Village One project. Village One would continue to be developed as a planned community; therefore, the proposed Floyd Avenue and Roselle Avenue Improvements would not divide an established community. There would be no impact, and no mitigation is required.

b., c. The Village One Specific Plan has been adopted by the City of Modesto and has been incorporated into the Modesto General Plan. The proposed Floyd Avenue and Roselle Avenue Improvements would be consistent with the Village One Specific Plan as amended by subsequent addenda. There are no other applicable land use or conservation plans for the project area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
X.	**MINERAL RESOURCES.** Would the project:				
a.	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☑
b.	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☑

Responses to Checklist Questions

a., b. No known mineral resources or important recovery sites are located in the Village One Specific Plan Area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XI.	**NOISE.** Would the project:				
a.	Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?	❑	❑	❑	☑
b.	Expose persons to or generate excessive groundborne vibration or groundborne noise levels?	❑	❑	❑	☑
c.	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	❑	❑	❑	☑
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	❑	❑	❑	☑
e.	Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?	❑	❑	❑	☑
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	❑	❑	❑	☑

Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.

Responses to Checklist Questions

a., c. The Village One Specific Plan program EIR found that traffic associated with the Village One project would expose existing residential uses on Claus Road, Floyd Avenue, Briggsmore Expressway, Oakdale Road, Roselle Avenue and Sylvan Avenue, to noise levels exceeding the general plan thresholds for residential uses. Mitigation measures identified in the program EIR were determined to reduce the level of impact, but in some cases not to a less-than-significant level. The City made a statement of overriding considerations when it certified the 1994 Supplement.

The proposed Floyd Avenue and Roselle Avenue Improvements project would not change project-related noise-generating activities. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that the Village One project would not expose people to, or generate excessive, groundborne vibration or groundborne noise levels. The proposed Floyd Avenue and Roselle Avenue Improvements project would not change project-related noise-generating activities. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR found that construction of the Village One project would result in a substantial temporary increase in ambient noise levels for residential housing. However, mitigation measures were incorporated into the program EIR to reduce the impact to a less-than-significant level. The proposed Floyd Avenue and Roselle Avenue Improvements would not change construction activities. There would be no additional impact. No additional mitigation is required.

e. The Village One Specific Plan program EIR found that the Village One project would not be located in an airport land use plan area or within 2 miles of a public airport. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area. There would be no impact. No mitigation is required.

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the eastern border of the Village One project area. However, take-offs and landings take place parallel to and outside the area's border, and flight patterns are generally situated east of the project area. The adjacent land use would be a business park, which would not be significantly affected by the limited noise generated at the airstrip. The proposed Floyd Avenue and Roselle Avenue Improvements would not change land use designations or the boundaries of the project area. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XII.	**POPULATION AND HOUSING.** Would the project:				
a.	Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	☐	☑
b.	Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
c.	Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑

Impacts on population and housing are analyzed on pages III-95 through III-99 of the 1994 Supplement.

Responses to Checklist Questions

a.–c. The Village One Specific Plan program EIR found that the Village One project would result in no significant impacts on population and housing units. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the amount of housing or employment in the specific plan area. There would be no impact. No mitigation is required.

XIII. PUBLIC SERVICES. Would the project:

a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
Fire protection?	❑	❑	❑	☑
Police protection?	❑	❑	❑	☑
Schools?	❑	❑	❑	☑
Parks?	❑	❑	❑	☑
Other public facilities?	❑	❑	❑	☑

Impacts on public services are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the only significant impact the Village One project would have on public services would be in the areas of fire protection and law enforcement. Mitigation measures were identified in the program EIR to reduce the level of this impact to a less-than-significant level. No other significant impacts on public services were identified. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the provision of public services. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XIV.	**RECREATION.** Would the project:				
a.	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	❑	❑	❑	☑
b.	Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	❑	❑	❑	☑

Impacts on recreation are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a., b. No significant impacts on recreation were identified in the program EIR. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the provision of parks and recreation facilities. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XV.	**TRANSPORTATION/TRAFFIC.** Would the project:				
a.	Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	☐	☐	☐	☑
b.	Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☑
c.	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☑
d.	Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☑
e.	Result in inadequate emergency access?	☐	☐	☐	☑
f.	Result in inadequate parking capacity?	☐	☐	☐	☑
g.	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☑

Impacts on transportation and traffic are analyzed on pages III-40 – III-44 of the 1994 Supplement.

Responses to Checklist Questions

a., b. The Village One Specific Plan program EIR found that the Village One project would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system and would affect level of service at several intersections. Mitigation measures identified in the program EIR were identified to reduce impacts to a less-than-significant level for all intersections except the Briggsmore Avenue/Oakdale Avenue intersection. For that intersection, the impact

was determined to be significant and not mitigable. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the 1994 Supplement. The proposed Floyd Avenue and Roselle Avenue Improvements would not alter traffic patterns in the project area or result in additional trips. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR did not find that the Village One project would result in a change in air traffic patterns. The proposed Floyd Avenue and Roselle Avenue Improvements do not include any elements that would affect air traffic patterns. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not find that the Village One project included any hazardous design features or increased any incompatible uses for roads in the project area. The proposed Floyd Avenue and Roselle Avenue Improvements incorporate roadway (including roundabout) design consistent with City of Modesto Standard Specifications. There would be no impact. No mitigation is required.

e. The Village One Specific Plan program EIR did not find that the Village One project would result in inadequate emergency access in the project area. Project design included provision of adequate roadways to serve the Village One development. The proposed Floyd Avenue and Roselle Avenue Improvements would not change roadway layout or land uses. There would be no additional impact. No mitigation is required.

f. The Village One Specific Plan program EIR did not find that the Village One project would result in inadequate parking capacity in the project area. The provision of parking, consistent with zoning requirements for all land uses, will be required. The proposed Floyd Avenue and Roselle Avenue Improvements would not change land use standards related to parking or amounts or intensity of development. There would be no impact. No mitigation is required.

g. The Village One Specific Plan has been adopted by the City of Modesto. Policies of the specific plan are coordinated with the policies of the general plan, including those applicable to transportation. The proposed Floyd Avenue and Roselle Avenue Improvements does not include any changes related to transportation policies, and would have no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVI.	**UTILITIES AND SERVICE SYSTEMS.** Would the project:				
a.	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	❑	❑	❑	☑
b.	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	❑	❑	❑	☑
c.	Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	❑	❑	❑	☑
d.	Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?	❑	❑	❑	☑
e.	Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	❑	❑	❑	☑
f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	❑	❑	❑	☑
g.	Comply with federal, state, and local statutes and regulations related to solid waste?	❑	❑	❑	☑

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a. The City provides sewer services to the Village One area. All wastewater would be directed to city wastewater treatment facilities. No wastewater discharges would occur in the project area. The proposed Floyd Avenue and Roselle Avenue Improvements would not increase the amount of

wastewater that will be generated at build-out of the Village One project. There would be no additional impact. No mitigation is required.

b., e. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed for the Village One project. The EIR found that, with mitigation, there would be no significant impact on water or wastewater infrastructure. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project demand for water or wastewater service. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed for the Village One project. The EIR found that, with mitigation, there would be no significant impact on storm water drainage facilities. An update to the Storm Drainage Master Plan has been completed and Adopted by the Modesto City Council. An addendum to the Village One program EIR for the Storm Drainage Master Plan has also been completed and adopted by the Modesto City Council.

The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project drainage plans or expected volume of storm-water. The project would not result in any additional impacts or the need for any additional mitigation beyond that assessed in the Addenda to the Village One Program EIR for the Storm Drainage Master Plan. No Mitigation is required

d. The Village One Specific Plan program EIR found that, with mitigation, the effects of the Village One project on water supply would be less than significant. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the Village One project's demand for water. There would be no additional impact. No mitigation is required.

f., g. The Village One Specific Plan program EIR found that the area's landfills have sufficient permitted capacity to accommodate the Village One project's solid waste disposal needs. The proposed Floyd Avenue and Roselle Avenue Improvements would not result in any generation of additional solid waste. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVII.	**MANDATORY FINDINGS OF SIGNIFICANCE.**				
a.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☑
b.	Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☐	☑
c.	Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☑

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

Responses to Checklist Questions

a. As described above, the proposed Floyd Avenue and Roselle Avenue Improvements would not result in any significant impacts on the environment over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR and subsequent supplements and addenda.

b. As described above, the proposed Floyd Avenue and Roselle Avenue Improvements would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR and subsequent supplements and addenda.

c. As described above, the proposed Floyd Avenue and Roselle Avenue Improvements would not result in any significant impacts affecting

humans over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR and subsequent supplements and addenda.

V. MITIGATION APPLIED TO PROJECT

The following mitigation measures developed in the 1994 Village One Specific Plan Supplement to the Program EIR are appropriate to the project and will be incorporated into the project. Therefore, the environmental effects of the project were covered by the program EIR.

I. Aesthetics
None

II. Agricultural Resources
None

III. Air Quality
None

IV. Biological Resources
None

V. Cultural Resources
None

VI. Geology and Soils
None

VII. Hazards and Hazardous Materials
None

VIII. Hydrology and Water Quality
None

IX. Land Use and Planning
None

X. Mineral Resources
None

XI. Noise
None

XII. Population and Housing

None

XIII. Public Services

None

XIV. Recreation

None

XV. Transportation/Traffic

Completion of this project is in specific furtherance of Mitigation Measure 7 of the Village One Supplemental EIR, which calls for completion of 4-lane improvements on Roselle Avenue. Mitigation Measure 14 calls for improvement of the Roselle/Floyd intersection to provide adequate capacity for projected traffic; the roundabout proposed at this location has been determined by the City's Traffic Engineer to provide the required capacity.

XVI. Utilities and Service Systems

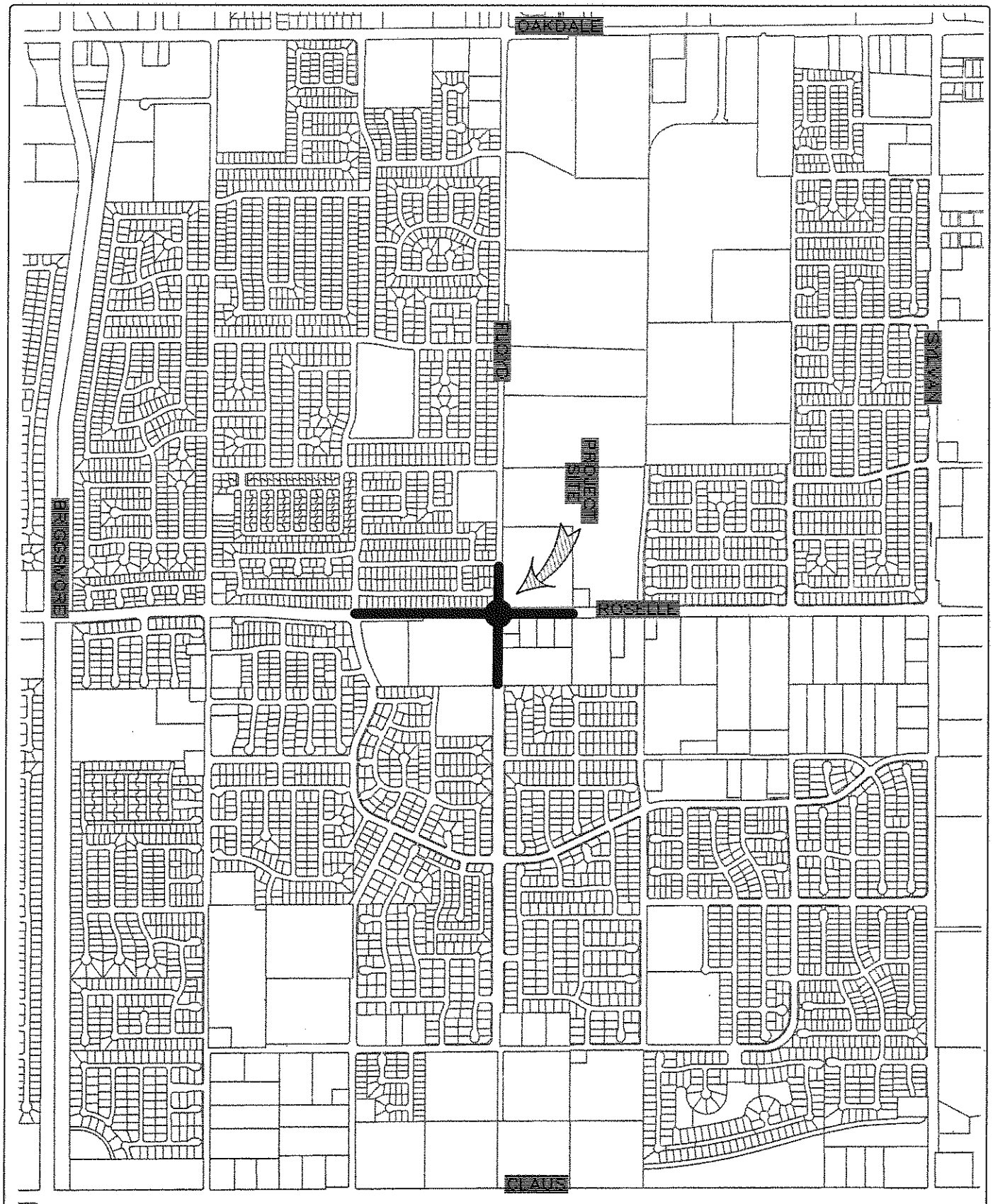
None

XVII. Mandatory Findings of Significance

None

Exhibit A
Location Map

EXHIBIT A: LOCATION MAP



CITY of MODESTO
PUBLIC WORKS DEPARTMENT

1010 10th STREET
P.O. BOX 642
MODESTO, CA 95353
PHONE: (209) 577-5215

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-093

A RESOLUTION APPROVING THE INCREASE IN PAYMENTS TO BUS PASS OUTLETS FOR MONTHLY BUS PASS SALES FROM $0.25 PER PASS SOLD TO $0.50 PER PASS SOLD.

WHEREAS, in October 1989, Council approved the plan to establish outlets to sell monthly bus passes, and

WHEREAS, there are currently eight (8) outlets that have executed agreements with the City to sell these monthly bus passes, and

WHEREAS, these outlets are strategically located around Modesto, and

WHEREAS, the current amount paid per bus pass sold is $0.25, which has not been increased since 1996, and

WHEREAS, it is necessary to increase the payment from the current $0.25 to $0.50 per pass sold to encourage businesses to continue participation in the program, and

WHEREAS, current executed agreements with the pass outlets allows the Council, by Resolution, to change the rate paid per monthly bus pass sold from time to time, and

WHEREAS, this recommended increase will cost approximately $575.00 annually and funds are budget in Account 6540-165-1672-0235 to cover this increase,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the increase in payment to bus pass outlets for monthly bus pass sales from $0.25 per pass sold to $0.50 per pass sold.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-094

A RESOLUTION APPROVING THE RETENTION OF CITY FORCES TO PERFORM FORESTRY MAINTENANCE SERVICES FOR A TWO-YEAR TERM, WITH THE TERM OF THE CONTRACT TO BEGIN ON JULY 1, 2007.

WHEREAS, the City of Modesto has used internal staff to perform Forestry Services for a number of years, and

WHEREAS, in 1994 an external management auditing firm, Arroyo Seco and Associates, compared City costs/outputs with outside service contractor costs with similar California cities, and

WHEREAS, the recommendation of Arroyo Seco and Associates, after detailed analysis, was to continue the use of internal staff for these services, and

WHEREAS, in FY 2004-05 the budget for tree-related services was approximately $3.2 million; however, the budget was reduced for FY 2005-06 due to shortfalls in the Gas Tax Fund and General Fund, and

WHEREAS, the heart of the tree-related services is planned cycle pruning, which includes general maintenance and mistletoe removal, and

WHEREAS, for several years crews were able to perform these tasks on a four-year cycle, and

WHEREAS, due to budget cuts and the growth of trees in size and number, the cycle has been extended to seven years, and

WHEREAS, because of the seven-year cycle change and the need to reduce overall expenditures, staff brought forward a recommendation to begin the managed competition process to see if these services could be performed at a lower costs and/or increased service levels at the same cost, and

WHEREAS, on June 14, 2005, Council, by motion, directed staff to begin the managed competition process, to begin the "meet and confer" process with the affect bargaining units, and authorized the issuance of a formal Request for Proposals (RFP) for Forestry Services by Resolution 2005-314, and

WHEREAS, on October 24, 2006, Council, by motion, approved a modification to the RFP, limiting the scope of the project to one-third of the forestry program and for all tree and stump removals, and

WHEREAS, this modification insured City staff minimum ramp up time to resume the program if the contract was awarded to an outside contractor and they failed to perform according to the terms of the contract, and

WHEREAS, the City's formal RFP process was followed and five (5) proposers chose to respond; however, only two were deemed to be responsive, Grover Landscaping and the Modesto City Employees Association (MCEA), and

WHEREAS, MCEA received the highest points in total evaluation, and the RFP Evaluation Committee recommended the contract be awarded to MCEA, and

WHEREAS, the MCEA'S proposal was developed using actual current costs for these services and represents no change in the Forestry's Division's budget, and

WHEREAS, MCEA's proposal is based on the full staffing of the Forestry Division, and

WHEREAS, under separate Council action, the Public Works Position Allocation is being amended to reallocate two (2) limited-term tree trimmer positions to full-time status in order to maintain the five-year pruning cycle as stated in MCEA's proposal, and

WHEREAS, starting the term of the contract on July 1, 2007 will align it with the FY 2007-08 budget cycle, and

WHEREAS, the Finance Committee, at its January 22, 2007 meeting, recommended approval of this action to retain City Forces to perform Forestry Maintenance Services for a two-year term,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves retaining City Forces to perform Forestry Maintenance Services for a two-year term, with the term of the contract to begin July 1, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-095

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CALLING A SPECIAL ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1997-1 (NORTH BEYER PARK) SPECIAL TAXES TO THE QUALIFIED ELECTORS OF THE TERRITORY PROPOSED TO BE ANNEXED TO THE DISTRICT (ANNEXATION NO. 2)

WHEREAS, this Council did, on January 2, 2007, adopt its Resolution No. 2007-021 (the "Resolution of Intention to Annex") to indicate its intention to annex certain territory to the City's Community Facilities District No. 1997-1 (North Beyer Park) (the "District") and authorize the levy of the District special taxes within the territory proposed to be annexed (the "Annexed Territory"), pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"), and set a hearing thereon; and

WHEREAS, notice of the hearing was duly published as required by law, as evidenced by the proof of publication on file with the City Clerk; and

WHEREAS, a map of the Annexed Territory, entitled "Annexation Map No. 2 of Community Facilities District No. 1997-1 (North Beyer Park) of the City of Modesto, County of Stanislaus, State of California," was recorded on January 3, 2007, in the Office of the County Recorder of the County of Stanislaus, in Book 4 of Maps of Assessment and Community Facilities Districts, at page 63; and

WHEREAS, at the time and date set for the hearing (February 6, 2007) pursuant to the Resolution of Intention to Annex, this Council held the public hearing, as required by the Act, related to the proposed annexation and the levy of the District special taxes

within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex; and

WHEREAS, at the hearing all persons desiring to be heard on all matters pertaining to the proposed annexation and the levy of the District special taxes within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex, including all interested persons for or against the proposed annexation to the District and the levy of the District special taxes within the Annexed Territory were heard and considered, and a full and fair hearing was held thereon; and

WHEREAS, at the hearing evidence was presented to this Council on the matters before it, and this Council, at the conclusion of the hearing, was fully advised as to all matters related to the proposed annexation and the levy of the District special taxes within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex; and

WHEREAS, written protests against the proposed annexation and the levy of the District special taxes within the Annexed Territory have not been filed with the City Clerk by 50 percent or more of the registered voters or six registered voters, whichever is more, residing within the District or residing within the Annexed Territory, or the owners of one-half or more of the land in the District, or in the Annexed Territory; and

WHEREAS, the Stanislaus County Registrar of Voters has certified there are less than 12 registered voters residing in the Annexed Territory; accordingly, the qualified electors are the landowners; and

WHEREAS, the City Clerk, being the Council's designated election official for purposes of the election herein called, has concurred in the election date herein set forth for the election;

NOW THEREFORE, BE IT RESOLVED, ORDERED AND FOUND by the City Council of the City of Modesto that:

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. All prior proceedings taken with respect to the annexation of the Annexed Territory to the District, and the levy of the District special taxes within the Annexed Territory were valid and in conformity with the requirements of the Act. This determination shall be final and conclusive upon all persons.

SECTION 3. The proposed annexation of the Annexed Territory to the District and the levy of the District special taxes within the Annexed Territory have not been precluded by majority protest pursuant to Section 53339.5 of the Act.

SECTION 4. As stated in the Resolution of Intention to Annex, it is the intention of this Council, subject to the approval of the qualified electors of the Annexed Territory, to annex the Annexed Territory to the District and levy the District special taxes within the Annexed Territory. Upon such approval the Council will be authorized to levy the District special taxes within the Annexed Territory.

SECTION 5. A special election is hereby called at which the question of levying the District special taxes within the Annexed Territory shall be submitted to the qualified electors of the Annexed Territory. The election shall be held in accordance with and subject to the Act, all of the terms of which shall, unless waived as herein provided, be

applicable to such election. The ballot measure shall be substantially in the form attached hereto as **Exhibit A**.

SECTION 6. Fewer than 12 persons have been registered to vote within the Annexed Territory for each of the 90 days preceding the close of the hearing referenced herein. Accordingly, the vote shall be by the landowners of the Annexed Territory, and each such landowner shall have one vote for each acre or portion thereof that he or she owns within the Annexed Territory. The ballots shall be distributed by mail with return postage prepaid, or by personal service, to each landowner, all as provided in Section 53326 of the Act.

Since the City Clerk has received an appropriate waiver of time limits and other requirements pertaining to the conduct of the election by the owner of all of the land in the Annexed Territory (the "Landowner"), the election shall be held on the 6th day of February 2007. The election shall be conducted by the City Clerk in the manner required by this resolution, the Act and applicable laws.

The hour on such date when the ballots are required to be received in the office of the City Clerk is 6:00 p.m., Pacific Time, provided that if all qualified electors have voted prior to such time, the election shall be closed upon the receipt of all of the ballots.

SECTION 7. In accordance with Section 53327(b) of the Act, analysis and arguments, as required by Section 53327(a) of the Act are hereby waived, as the City Clerk has received the unanimous consent to such waivers from the Landowner.

SECTION 8. The publication of this Resolution as notice of the special election is hereby waived as the City Clerk has received the unanimous consent to such waiver from the Landowner.

SECTION 9. The Annexed Territory shall constitute a single election precinct for the purpose of holding the election.

SECTION 10. The City Clerk is hereby authorized to take any and all steps necessary for the holding of the election, and to perform and render all services and proceedings incidental to and in connection with the election.

SECTION 11. The City Clerk shall canvass the returns and certify the results of the election to this Council. If two-thirds or more of the votes cast are in favor of levying the District special taxes in the Annexed Territory, this Council may thereafter order the annexation of the Annexed Territory to the District and levy the District special taxes in the Annexed Territory in the amount and for the purposes specified in Resolution No. 97-355 adopted by this Council on June 19, 1997 (the "Resolution of Formation").

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th of February 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD City Attorney

SAMPLE

OFFICIAL BALLOT

BALLOT NO. 1

CITY OF MODESTO
COMMUNITIES FACILITIES DISTRICT NO. 1997-1
(NORTH BEYER PARK)

ANNEXATION NO. 2

SPECIAL TAX ELECTION

February 6, 2007

100% OF LAND IN TERRITORY PROPOSED TO BE ANNEXED TO DISTRICT
NUMBER OF VOTES ENTITLED TO BE CAST : 11
(VOTER MAY REMOVE AND RETAIN THIS STUB)

INSTRUCTIONS TO VOTERS

To vote, make a mark (x) in the voting area to the right of the word "YES" or "NO."

All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, telephone the Office of the City Clerk of the City of Modesto for instructions as soon as possible at (209) 577-5398, Monday through Friday, between the hours of 9:00 a.m. and noon

MARK YOUR CHOICE IN THIS MANNER ONLY: ☒

MEASURE SUBMITTED TO VOTE OF VOTERS

Proposition A. Shall special taxes, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City's Resolution No. 1997-355 entitled "A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 1997-1, Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Tax and the Establishment of the Appropriations Limit to the Qualified Electors of the District (North Beyer)" (the "Resolution of Formation"), adopted by the City Council on June 24, 1997, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 1997-1 (North Beyer Park) pursuant to the City Resolution No. 2007-021, entitled "A Resolution of Intention to Annex Territory to Community Facilities District No. 1997-1 (North Beyer Park) and to authorize the levy of Special Taxes therein. (Annexation No. 2) (the "Resolution of Intention to Annex") adopted by the City Council of the City of Modesto on January 2, 2007, for the purposes set for in the Resolution of Formation.

YES ☐

NO ☐

BALLOT NO. 1

100% of land in territory proposed to be annexed to District
THIS BALLOT HAS A VALUE OF 11 VOTES

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-096

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CANVASSING THE RESULTS OF THE FEBRUARY 6, 2007, ELECTION HELD WITHIN THE TERRITORY PROPOSED TO BE ANNEXED TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1997-1 (NORTH BEYER PARK), AND ORDERING ANNEXATION OF THE TERRITORY TO THE DISTRICT (ANNEXATION NO. 2)

WHEREAS, this Council is conducting proceedings pertaining to the annexation of certain territory to the City's Community Facilities District No. 1997-1 (North Beyer Park) (the "District") and the levy of the District special taxes (the "District Special Taxes") within such territory, as described in its Resolution No. 2007-021, entitled "A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 1997-1 (North Beyer Park) and to Authorize the Levy of Special Taxes therein (Annexation No. 2)" adopted on January 2, 2007, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"); and

WHEREAS, the owners of all the property within the territory proposed to be annexed to the District waived those provisions related to the timing and conduct of the election referenced in Sections 5, 6, 7 and 8 of this Council's Resolution No. 2007-096, adopted on February 6, 2007, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the "Election") for February 6, 2007, or as soon thereafter as practicable, relative to the foregoing; and

WHEREAS, on February 6, 2007, the Election was held; and

WHEREAS, the City Clerk has certified that at the Election the proposition of levying the District Special Taxes within the territory proposed to be annexed to the District was approved by more than two-thirds (2/3) of the votes cast at the Election;

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND by the City Council of the City of Modesto that:

SECTION 1. The Election was duly and validly conducted in conformity with all applicable laws pertaining thereto. It is hereby determined that the owner or owners of the territory proposed to be annexed are as set forth in the Certificate of City Clerk as to Distribution of Official Ballots, submitted to this Council and on file with the City Clerk.

SECTION 2. The ballot proposition presented to the qualified electors of the territory proposed to be annexed at the Election received at least two-thirds (2/3) of the votes cast at the Election. A copy of the City Clerk's certificate of election results is attached.

SECTION 3. Pursuant to Section 53339.8 of the Act, it is hereby ordered that the territory proposed to be annexed to the District pursuant to Resolution No. 2007-021 be annexed to and be a part of the District with full legal effect, and that the District Special Taxes be levied within the territory.

SECTION 4. The City Clerk is hereby directed to enter this resolution on the minutes of this City Council, which shall constitute the official declaration of the result of the Election.

SECTION 5. The City Clerk is further authorized and directed to record an amendment to the Notice of Special Tax Lien with the County Recorder of the County of Stanislaus, within 15 days from the date hereof, in accordance with the provisions of Sections 3114.5 and 3117.7 of the California Streets and Highways Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CERTIFICATE OF CITY CLERK

I, JEAN MORRIS, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2007-095, A Resolution of the City Council of the City of Modesto Calling an Election for the Purpose of Submitting the Levy of the City of Modesto Community Facilities District No. 1997-1 (North Beyer Park) Special Taxes to the Qualified Electors of the Territory Proposed to be Annexed to the District (Annexation No. 2) adopted on January 2, 2007, by the City Council of the City of Modesto, I did conduct the Special Tax Election on February 6, 2007, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

I further certify that the following shows the full text of the measure submitted to the voters at the election and the full and true totals of all votes cast for and against the measure.

Proposition A. Shall special taxes, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City's Resolution No. 1997-355 entitled "A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 1997-1, Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Tax and the Establishment of the Appropriations Limit to the Qualified Electors of the District (North Beyer)" (the "Resolution of Formation"), adopted by the City Council on June 24, 1997, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 1997-1 (North Beyer Park) pursuant to the City Resolution No. 2007-021, entitled "A Resolution of Intention to Annex Territory to Community Facilities District No. 1997-1 (North Beyer Park) and to authorize the levy of Special Taxes therein. (Annexation No. 2) (the "Resolution of Intention to Annex") adopted by the City Council of the City of Modesto on January 2, 2007, for the purposes set for in the Resolution of Formation?

TOTAL VOTES CAST: YES 11 NO 0

Jean Morris

Jean Morris
City Clerk of the City of Modesto

Dated: Feb 6, 2007

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-097

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(577), FOR A MULTI-FUNCTION MINISTRY CENTER ON PROPERTY LOCATED ON THE WEST SIDE OF MARTIN LUTHER KING DRIVE AND ON THE NORTH SIDE OF VINE STREET. (CITY MINISTRY NETWORK, INC.)

WHEREAS, a verified application for an amendment to Section 31-3-9 of the Zoning Map was filed by City Ministry Network, Inc. on March 2, 2006, to rezone from Low Density Residential Zone, R-1, and Planned Development Zones, P-D(503) and P-D(533) to a Planned Development Zone, P-D(577), to allow for a multi-function center on three combined parcels totaling 2.56 acres, property located on the northwest corner of Martin Luther King Drive and Vine Street, described as follows:

All that certain real property being a portion of the South half of Lot 9 of Spencer Colony, according to the Official Map thereof, filed in the office of the Recorder of Stanislaus County, State of California, on December 16, 1904 in Volume 2 of Maps at Page 3, described as Follows

P-D(533) to P-D(577)

The East 149.08 feet of the South 209 feet of said Lot 9, excepting therefrom the South 130 feet.

P-D(503) to P-D(577)

Beginning at the Northeast corner of the said South half of Lot 9, at a point on the centerline of N. Martin Luther King Drive (formerly known as Franklin Street), and running thence South 89°58'30" West, 665.68 feet, more or less, to the Northwest corner of said South half of Lot 9; thence South 0°10' West, along the west line of said Lot 9 and the centerline of the Modesto Irrigation District canal, 97.05 feet to a point; thence North 89°58'30" East, 125 feet to a point; thence South 0°10' West, 100 feet to a point; thence North 89°59' East, 391.60 feet; thence North 0°10'00" East, 79.00 feet; thence South 89°59'00" West, 20.92 feet; thence North 0°10'00" East, 61.00 feet; thence North 89°59'00" East, 170.00 feet to the centerline of N. Martin Luther King Drive; thence along said centerline, 57.05 feet to the point of beginning.

R-1 to P-D(577)

Commencing at the Northwest corner of the South half of said Lot 9, and running thence South 0°10" West, 97.05 feet to the true point of beginning; thence continuing South 0°10" West, 100 feet to a point; thence North 89°58'30" East, 125 feet; thence North 0°19' East, 100 feet; thence South 89°56'30" West, 125 feet to the true point of beginning.

WHEREAS, this matter was originally heard by the Planning Commission in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California on August 7, 2006, and after failure to obtain four votes to deny, the matter was continued to August 21, 2006; and

WHEREAS, at the request of the applicant, the matter was further continued to October 2, 2006, and November 6, 2006, and

WHEREAS, after a public hearing held on November 6, 2006, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2006-67, that rezoning of the property as requested is required by public necessity, convenience, and general welfare in accordance with the following findings:

> The proposed Planned Development Zone is in conformance with the General Plan which provides for institutional religious activities and facilities in all neighborhoods.

WHEREAS, said matter was set for a public hearing of the City Council to be held on February 6, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of City Ministry Network, Inc. for a Planned Development Zone should be granted as being consistent with public necessity, convenience and general welfare in accordance with the findings set forth in Planning Commission Resolution No. 2006-67 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3432-C.S. on the 6th day of February, rezoning the above-described property from Low Density Residential Zone, R-1, and Planned Development Zones, P-D(503) and P-D(533) to Planned Development Zone, P-D(577).

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(577), is hereby approved subject to the following conditions:

1. All development shall be in accordance with the plot plan and building elevations titled "City Ministry Center West" as amended in red, stamped approved by the City Council on February 6, 2007.
2. Street dedication and improvements in accordance with the City of Modesto Standard Specifications shall be provided on Martin Luther King Drive prior to occupancy of any structure or as requested by the City Engineer.
3. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer. Improvement plans shall include upgrade to the water delivery system pipe size to the site, specifically from four inches to eight inches. Improvements shall be constructed in accordance with the approved plans.
4. All private streets including the widening of Vine Street, shall be constructed in accordance with the standard structural section for local

residential streets as contained in the City of Modesto Standard Specifications. The curb cuts onto Vine Street shall be drop-curb type.

5. Development shall comply with the following stormwater requirements:

   a. Developer shall obtain coverage for project under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB).

   b. To obtain coverage under the General Permit, a Notice of Intent (NOI) shall be filed with the SWRCB. Submit one copy of NOI to Development Services, Stormwater, when filed.

   c. The General Construction Permit requires the Developer to prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) for project. Submit one copy of SWPPP to Development Services, Stormwater, for review.

   d. Trash enclosures for project shall be bermed to prevent stormwater run-on and graded to drain to adjacent landscape areas.

   e. Developer shall provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½" of stormwater run-off from site.

   f. Provide owner-signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Development Services, Stormwater for recording. This shall be done prior to obtaining a Grading or building permit.

6. Prior to issuance of a building permit, the applicant shall satisfy the Fire Chief of the following:

   a. An automatic fire sprinkler system is required for new construction exceeding 5,000 square feet of floor area under one roof.

   b. Fire Department Connection (FDC) should be accessible and located within 90 feet of a fire hydrant that will be located on the supply side of the fire suppression system check valve.

   c. On and offsite hydrants shall be located at 300-foot intervals. Please show all existing and proposed fire hydrants.

7. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhoods Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

8. Fences or walls shall be constructed prior to occupancy and shall be a six-foot-high solid masonry wall along the entire west property line and along the northern property line.

9. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

10. Prior to issuance of a building permit, the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee. A 15-foot-wide public utility easement shall be dedicated along Martin Luther King Dr.

11. The trash enclosure shall be angled to facilitate unloading, as shown in red on the approved plan and shall be constructed to the specifications of Public Resources Code per the requirements of the City's Solid Waste Management Division.

12. All signs shall comply with the sign requirements of the R-1 Zone.

13. The developer shall indemnify, defend and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, action or proceedings against the City of Modesto, its agents, officers, and employees to arbitrate, attack, review, set aside, void, or annul, any approval by the City of Modesto of a development approval.

14. The City of Modesto shall promptly notify the developer of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the developer shall not thereafter be responsible to defend, indemnify, or hold City harmless.

15. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(577):

The entire construction program be accomplished in one phase, construction to begin on or before February 6, 2011, and completion to be not later than February 6, 2013.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(577), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By Steve Mitchell
Community & Economic Development Department
Planning Division

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-098

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 31-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL, R-1, AND PLANNED DEVELOPMENT ZONES, P-D(503) AND P-D(533), TO PLANNED DEVELOPMENT ZONE, P-D(577) PROPERTY LOCATED ON THE NORTHWEST CORNER OF MARTIN LUTHER KING DRIVE AND VINE STREET (CITY MINISTRY NETWORK, INC.)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the updated Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, City Ministry Network, Inc. has proposed that the zoning designation for property located on the northwest corner of Martin Luther King Drive and Vine Street be amended to rezone from Low Density Residential Zone, R-1, and Planned Development Zones, P-D(503) and P-D(533), to a new Planned Development Zone, P-D(577), in the City of Modesto ("the project") to allow a multi-function ministry center and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2006-41 ("Initial Study") reviewed the proposed amendment to the Zoning Map and rezone to P-D(577) project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new or additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on January 14, 2007, the City caused to be published a 10-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on February 6, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the Zoning Map and rezone to P-D(577) project, a copy of which is attached hereto as **Exhibit "A",** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The proposed P-D Zone is in conformance with the General Plan which provides for institutional religious activities and facilities in all neighborhoods.
2. The type of project is described in Chapter II of the Master EIR.

3. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

4. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

5. Based on the Initial Study, the City of Modesto finds and determines:

    a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.

    b. No new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2006-41, provides the substantial evidence to support finding numbers 2-6, noted above.

7. The improvements to Vine Street and Martin Luther King Drive are necessary to facilitate the increased traffic into and out of the proposed development.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2006- 41)

For the proposed:

Rezone from R-1, P-D(503), and P-D(533) to a New P-D Zone for a Multi-function Ministry Center at Martin Luther King Drive and Vine Street

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

May 31, 2006

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the **Rezone from R-1, P-D(503), and P-D(533) to a new P-D Zone for a Multi-function Ministry Center at Martin Luther King Drive and Vine Street** is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Rezone from R-1, P-D(503), and P-D(533) to a New P-D Zone for a Multi-function Ministry Center at Martin Luther King Drive and Vine Street

B. Address or Location: West side of Martin Luther King Drive and North side of Vine Street

C. Applicant: City Ministries Network, Inc, Attn: Ross Briles, P.O. Box 4309, Modesto CA 95352

D. City Contact Person: Robert S. Cannell

Project Manager: Robert S. Cannell
Department: Community and Economic Development Department
Phone Number: (209) 577-5274
E-mail address: bcannell@modestogov.com

E. Current General Plan Designation(s): "R" Residential

F. Current Zoning Classification(s): P-D(503), Planned Development Zone, P-D(533) and R-1, Low-Density Residential

G. Surrounding Land Uses:

North:	Residential Units (County Properties)
South:	Apartments, R-3 Zone and City-owned Community Center
East:	Residential Units (R-2 Zone Properties)
West:	Residential Units (County Properties)

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The applicant proposes to combine three adjoining properties into one 2.56 acre site for a multi-functional ministry center featuring a new 30,000-square-foot one- and two-story building including a gymnasium and 140 off-street parking spaces. The land had been previously approved for a senior citizen housing complex.

I. Other Public Agencies Whose Approval is Required:

None.

IIII. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2.____ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.____ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Project Manager	Senior Planner Title	May 31, 2006 Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X ☐

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X ☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

DISCUSSION:
This is an application to rezone to P-D, two previously-approved planned development zones. The addition of the Ministry Center is compatible with the existing surrounding mixed use of residential development and recreational uses located around this area. Because the project is consistent with the surrounding mixed use, the proposed land use will not change to a level that will cause a change to the existing road capacities or levels of service.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project.*

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	YES	NO
(1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.	☐	X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

		YES	NO
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and found:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. The design and layout of the proposed parking area will comply with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a building addition for an existing church. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

DISCUSSION:

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project site and the surrounding property are located within a fully developed urbanized area, both inside and outside the corporate City limits.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant.*

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. *This cumulative impact is considered significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project. It is not on or adjacent to any park sites, nor is it near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity; it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is infill development that will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

2. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

Noise Measures:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

   The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

A. A hammer, or any other device or implement used to pound or strike an object.

B. An impact wrench, or other tool or equipment powered by compressed air.

C. A hand-powered saw.

D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

1. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K

Storm Drainage Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007- 099

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR: APPLICATION FOR A PRECISE PLAN AMENDMENT TO AREA NO. 20 SUB-AREA C OF THE VILLAGE ONE SPECIFIC PLAN TO ALLOW A SENIOR HOUSING TOWNHOUSE DEVELOPMENT, PROPERTY LOCATED ON CHANDON DRIVE, SOUTHEAST OF FLOYD AND ROSELLE AVENUES (SILVER OAK)

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One Final Environmental Impact Report ("EIR") (State Clearing House No. 90020181) is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, the Modesto City Council has adopted Resolution No. 94-297 which certified the Final Supplemental EIR for Village One; thus, the 1990 Village One Program EIR has been amended and updated by the 1994 Supplemental EIR, adopted by Resolution No. 94-297 on May 24, 1994, and

WHEREAS, on May 6, 2003, the City Council adopted Resolution No. 2003-223 which adopted an Addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan Update – May 2003 ("VI FMP "), and

WHEREAS, an application has been filed by Silver Oak Communities for a amendment to Precise Plan for Area No. 20, property located on Chandon Drive, southeast of Floyd and Roselle avenues, and

WHEREAS, the City's Community & Economic Development Department reviewed the proposed Project to determine if said Project might have a significant effect on the environment, and

WHEREAS, City staff has prepared a Written Checklist, Environmental Assessment No. EA/C&ED 2006-71, which concluded that the proposed Project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and the addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan, and

WHEREAS, the Planning Commission, by Resolution No. 2006-79, adopted on December 18, 2006, and City staff, by a report dated December 5, 2006, from the Community and Economic Development Department, recommended to the City Council approval of a Precise Plan for Area No. 20, property located on Chandon Drive, southeast of Floyd and Roselle Avenues, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on February 6, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2006-71, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2006-71 For the Proposed Precise Plan Amendment of Area No. 20 in the Village One Specific Plan Area", for the proposed project, and the Council hereby makes the following findings:

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

2. As per Sections 15168 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Program EIR, and no new environmental document or findings are required by CEQA, and

3. There are no substantial changes proposed in the project, which result in new significant environmental effects, or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR are required.

4. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and therefore, no major revisions to the Program EIR, are required.

5. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:

    a. One or more significant effects which is not discussed in the Program EIR; or,

    b. Significant effects which were previously examined will be substantially more severe than previously shown; or,

    c. Previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,

    d. Mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

6. The Written Checklist, Environmental Assessment No. EA/C&ED 2006-71, provides the substantial evidence to support findings 3-5, noted above.

A copy of said Written Checklist, Environmental Assessment No. EA/C&ED 2006-71, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2006-71 for the proposed Precise Plan Amendment to No. 20 in the Village One Specific Plan Area", is attached hereto as **Exhibit "A",** and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Determination:
Project within the Scope of the Village One Specific Plan Program Environmental Impact Report for Precise Plan Area #20 & The Devante Senior Villas VTSM

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: David Wage
209/577-5302

Prepared by:

Josh Bridegroom, Associate Planner
City of Modesto
Community & Economic Development Department
209/571-5540

December 18, 2006

WRITTEN CHECKLIST

EA/C&ED No. 2006-71

I. PURPOSE

This written checklist, pursuant to CEQA Guidelines Section 15168 (C) (4), serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR. Based on a review of the project and Section 15162(a), this determination would permit the lead agency (City of Modesto) to approve the activity as being within the scope of the project covered by the Program EIR. This determination includes whether any new environmental document is required beyond the adopted Village One Specific Plan Program EIR (SCH# 90020181) for the proposed Precise Plan Area #19 and The Plaza VTSM (project).

The 1994 Supplemental EIR that amended and superseded the 1990 Program EIR is the document reviewed for projects within the Village One Specific Plan area. A summary of significant impacts and their mitigation measures from the 1994 Supplemental EIR is attached as Exhibit "A." Where appropriate those feasible mitigation measures developed in the Supplement to the program EIR shall be incorporated into the proposed project.

II. PROJECT INFORMATION

1. **Project Title:** Precise Plan 20 & The Devante Senior Villas VTSM

2. **Lead Agency Name and Address:** City of Modesto

3. **Contact Person and Phone Number:** David Wage, Assistant Planner
Modesto Community & Economic Development Department
209/577-5302

4. **Project Location:** Property located southeast of Floyd and Roselle on Chandon.
Modesto, California
APN # 085-040-063

5. **Project Sponsor's Name and Address:** Silver Oak Communities LLC. Attn: Jeff Kind
7600 N Ingram, Suite 131, Fresno, CA 93711

6. **General Plan Designation:** The General Plan land use designation for the project site is: Village Residential (VR).

7. **Zoning:** Specific Plan Overlay (SP-O)

8. **Description of Project:** The applicant plans to develop seventy lots to accommodate seventy privately owned, senior restricted dwelling units known as Davante Senior Villas. The senior condominiums will be located on six acres at Chandon Drive. The proposed senior housing development is consistent with the use and development standards outlined in Precise Plan for Area No. 20; however an amendment is needed in order to develop condominiums. .

9. **Surrounding Land Uses and Setting:** The Village One Specific Plan Area is over half built, as planned and approved by the 1990 Village One Specific Plan. The project area is bounded by developing subdivisions, Hacienda del Sol and Village Ranch, to the east and west, by Ustach Middle School to the north and by an existing residential neighborhood to the south.

10. **Other Public Agencies whose Approval Is Required:** None.

III. DETERMINATION:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15162 the following is true for the proposed project:

(1) Major revisions to the Village One Program EIR as amended by the 1994 Supplement, are not required because the project will not involve new significant environmental effects or increase severity of effects previously identified, and

(2) Major revisions to the Village One Program EIR as amended by the 1994 Supplement, are not required because no substantial changes to circumstances

have occurred that involve new significant environmental effects or increase severity of effects previously identified, and

(3) No new information of substantial importance that was not known has become available that shows:

   a. one or more significant effects is not discussed in the Village One Program EIR as amended by the 1994 Supplement,

   b. identified significant effects will be more severe,

   c. previously infeasible mitigation measures are now feasible,

   d. project proponents have declined to adopt mitigation measures that would substantially reduce significant effects.

(4) Because no new significant effects have been identified and no new mitigation is required for the project, the environmental effects of the operation of the proposed project were covered by the Village One Program EIR as updated by the 1994 Supplement. Therefore, pursuant to CEQA Section 15168 (C) (4) no new environmental document is required.

(5) Therefore, the projects known as Precise Plan 20 and Devante Senior Villas VTSM are within the scope of the Village One Program EIR.

David Wayne 12/12/06

Project Manager Date

IV. PROJECT EVALUATION:

The following written Checklist based on Appendix G of the CEQA Guidelines serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15168 (c) (4) to determine whether the environmental effects of the operation were covered in the Program EIR.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
I.	**AESTHETICS.** Would the project:				
a.	Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☑
b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	☐	☐	☐	☑
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☑
d.	Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	☐	☐	☐	☑

Aesthetic and visual impacts are analyzed on pages III-100 through III-101 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that as the Specific Plan area is developed, it will eliminate views of the valley and the distant mountains from adjacent areas and reduce the area's visual open space. However, the program EIR found the effects of buildout of Village One on scenic vistas to be less than significant because views from the project area are minimal. The proposed residential project would not change the extent or nature of construction in the Specific Plan area, or cause any other changes in the project area. Impacts on scenic vistas would therefore remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that there are no scenic resources in the project area, and that development within the Specific Plan area would therefore not result in significant impacts on scenic resources. This

finding would not be affected by the proposed residential project. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that the development within the Specific Plan area would have a less-than-significant impact on the visual character of the area. The proposed residential project would not change the design or layout of the development proposed within the Village One Specific Plan. For this reason, impacts on the visual character of the area would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

d. The proposed residential development is consistent with the Village One Specific Plan. For this reason, impacts associated with additional light and glare would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
II.	**AGRICULTURAL RESOURCES.** In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:				
a.	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☑
b.	Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?	☐	☐	☐	☑
c.	Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	☐	☐	☐	☑

Impacts on agricultural resources are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that land designated as Prime Farmland would be lost as a result of development in the Village One Specific Plan area. This impact was determined to be significant and not mitigable. The proposed residential development would not affect this finding because the project area would remain the same. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR presented information showing that any Williamson Act contracts in the Village One Specific Plan area would be automatically cancelled on annexation of the land to the City of Modesto, which has occurred, or would expire within 10 years of the time the original program EIR was prepared. The last Williamson Act contract covering land in the Village One Specific Plan area expired in 2001. There are no lands in the project area under Williamson Act contract. The Village One Specific Plan area has also been rezoned consistent with the specific plan, and no lands in the project area are now zoned for agricultural use. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR identified a potential land use conflict between new residential uses in the specific plan area and adjacent agricultural uses. Such conflicts can lead to conversion of adjacent farmlands to other uses. The program EIR proposed mitigation measures for this potential impact that would reduce the impact's significance, although the EIR noted that the mitigation measure might not fully mitigate the impact. No additional mitigation measures are available for this impact. This finding would not be affected by the proposed project because the project area and proposed land uses would remain the same. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
III.	**AIR QUALITY.** When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a.	Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☑
b.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
c.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☑
d.	Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☑
e.	Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☑

Impacts on air quality are analyzed on pages III-45 through III-54 of the 1994 Supplement.

Responses to Checklist Questions

a. / b. The Village One Specific Plan program EIR found that air pollution from project-related construction traffic and fireplaces & wood stoves in planned residential areas would violate air quality standards and contribute to an existing air quality violation. Construction traffic emissions would contribute to violation of the state and federal 8-hour carbon monoxide (CO) and particulate matter (PM10) standards and the federal ozone standard in the Modesto Urban Area and the San Joaquin Valley Air Basin. Urban traffic pollution would contribute to violations of the state ozone, CO, and PM10 standards in the Modesto Urban Area and San Joaquin Valley Air Basin. Residential pollution would contribute to violations of the pollutant standard index in the Modesto Urban Area. Partial mitigation for these impacts is included in the program EIR (Mitigation Measures 3–5), and the City of Modesto adopted a statement of overriding consideration for each impact. The proposed residential project would not change the amount of development and construction in the project area, so trips generated by the project would not be affected and the types of land uses would not change. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that air pollutant emissions associated with traffic at buildout of Village One would exacerbate the existing ozone, PM10, and CO violations in the Modesto area and cause a significant cumulative impact. Partial mitigation for these emissions is included in the program EIR (Mitigation Measures 4.5.3[a] and 4.5.3[b]), and the City of Modesto made a statement of overriding consideration for each impact. The proposed residential development would not change the amount of traffic associated with buildout of Village One or the types of land uses, so trips

generated by the project would not be affected. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR found that PM10 generated during construction would aggravate the respiratory problems of people living and working nearby, therefore exposing sensitive receptors in the area to pollutant concentrations and causing a significant impact. However, the program EIR outlines mitigation measures that will be implemented to reduce the impact to an acceptable level (Mitigation Measure 40). The proposed residential development would not change the level of construction emissions. There would be no additional impact. No mitigation is required.

e. The proposed residential development would not create odors. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IV.	**BIOLOGICAL RESOURCES.** Would the project:				
a.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☑	☐
b.	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☑
c.	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☑
d.	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☑
f.	Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☑

Impacts on biological resources are analyzed on pages III-68 through III-79 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the buildout could result in the loss of foraging habitat for Swainson's Hawk, a state-listed threatened species. However, a Swainson's Hawk survey was conducted by a qualified biologist for the project site. The ensuing report (attached) found that the development of the project site would result in a less than significant impact to foraging habitat for Swainson's Hawk. Therefore, no mitigation is required.

b. The Village One Specific Plan program EIR did not find that any riparian habitat or other designated sensitive natural community was present in the project area, and so found that the project would have a less-than-significant impact. The proposed residential development would not change the boundaries of the Specific Plan area. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would result in the loss of lands that might be classified as wetlands by the U.S. Army Corps of Engineers, but that, with mitigation, the impact would be less than significant. The proposed residential development would not change the Specific Plan area boundaries or the areas that would be disturbed. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not identify any migratory corridors in the project area, nor did it find that the project would interfere with the movement of any species. The proposed residential development would not change the Specific Plan area boundaries. There would be no impact. No mitigation is required.

e. / f. No local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans apply to the Village One Specific Plan area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
V.	**CULTURAL RESOURCES.** Would the project:				
a.	Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	☐	☐	☐	☑
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	☐	☐	☐	☑
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☑
d.	Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☑

Responses to Checklist Questions

a.-d. Impacts on cultural resources resulting from the buildout of Village One (e.g., from construction of associated infrastructure) are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The report concluded that there are no known historic, archaeological, or paleontological resources in the Village One Specific Plan area. Based on the results of this report, (Cultural and Historic Resources Report, page 3) it was determined that the likelihood that the proposed residential development would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. Development of the proposed project will not result in effects on scattered existing structures. A Cultural Resources Assessment was prepared to determine if any of these affected structures are considered historic resources. The Cultural Resources Assessment is attached to this document as Appendix A. No historic structures are located within the project area boundaries. Therefore, no mitigation measures are necessary.

Since no archaeological, or paleontological resources were found in the previous document to be located in the project area, and since the proposed project would not have a significant impact on historic structures, there would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VI.	**GEOLOGY AND SOILS.** Would the project:				
a.	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
	1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☑
	2. Strong seismic groundshaking?	☐	☐	☐	☑
	3. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☑
	4. Landslides?	☐	☐	☐	☑
b.	Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☑
c.	Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☑
d.	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☑
e.	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?	☐	☐	☐	☑

Impacts associated with geology and soils are analyzed on pages III-105 through III-108 of the 1994 Supplement.

Responses to Checklist Questions

a.-d. The program EIR, as supplemented, found that the project area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures were required. The proposed residential development would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan included provisions for the project to be served by public sewers. No septic tanks or alternative wastewater systems were proposed. The proposed residential project would not change the proposed method of wastewater disposal. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
VII.	**HAZARDS AND HAZARDOUS MATERIALS.** Would the project:				
a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☑
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☑
c.	Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☑
d.	Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☑
e.	Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑

Potentially Significant | Less than Significant | Less-than-Significant | No Impact

		Impact	with Mitigation Incorporated	Impact	
f.	Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☑
h.	Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☑

Impacts associated with hazards and hazardous materials are analyzed on pages III-80 through III-94 and III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a.–c. The Village One Specific Plan does not allow any land uses that would use hazardous materials. The proposed residential development would not change land uses contemplated by the Specific Plan. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR, as supplemented, found no hazardous materials were stored at or near the project site. No significant impacts were identified, and no mitigation measures were required. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located to the east of the Village One Specific Plan area. However, take-offs and landings were found to take place parallel to and outside the Specific Plan area boundaries, and flight patterns are generally situated to the east of the Specific Plan area. There would be no additional impact. No mitigation is required.

g. Since the adoption of the Village One Specific Plan, the Modesto General Plan has been updated to include development of Village One consistent with the specific plan. City emergency plans are developed with the assumption that the Village One Specific Plan will be implemented. The proposed residential development would not change construction, land use, or other physical attributes of the Right-of-Way Acquisition. There would be no additional impact. No mitigation is required.

h. The project site is located in an area of the City of Modesto planned for buildout of an urban neighborhood. Approximately 50% of the project area remains undeveloped, with a covering of dry brush and vegetation. The potential for wildland fires is low, and this potential will decrease further as buildout continues. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VIII.	**HYDROLOGY AND WATER QUALITY.** Would the project:				
a.	Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☑
b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☑
c.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?	☐	☐	☐	☑
d.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
e.	Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☑
f.	Otherwise substantially degrade water quality?	☐	☐	☐	☑

g.	Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	❑	❑	❑	☑
h.	Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	❑	❑	❑	☑
i.	Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	❑	❑	❑	☑
j.	Contribute to inundation by seiche, tsunami, or mudflow?	❑	❑	❑	☑

Impacts associated with hydrology are analyzed on pages III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR did not find that residential development would violate any water quality standards or waste discharge requirements. The proposed project is consistent with the Village One Specific Plan, so there would be no additional impacts. No mitigation is required.

b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area might interfere with local groundwater recharge. However, the impact was found to be less than significant because the Specific Plan area is not a major groundwater recharge area and it includes a recharge/discharge plan for disposal of stormwater runoff and recharge of groundwater. The proposed project would not change the amount of impervious surface in the Specific Plan area or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

c.–e. The Village One Specific Plan program EIR found that development will substantially alter the existing drainage pattern of the area but, because the project will incorporate an urban storm drain system, will not result in any erosion impacts. The proposed project would not change the amount of impervious surface or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

f. The Village One Specific Plan program EIR did not find that development would substantially degrade water quality. The proposed project would not change water use or discharge associated with the buildout of the Village One Specific Plan area. There would be no additional impact. No mitigation is required.

g.–i. According to the Village One Specific Plan program EIR, the project site is not situated in a 100-year flood hazard area or downstream from a levee or dam. There would be no impact. No mitigation is required.

j. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IX.	**LAND USE AND PLANNING.** Would the project:				
a.	Physically divide an established community?	☐	☐	☐	☑
b.	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☑
c.	Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☑

Impacts associated with land use and planning are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

a. The proposed project would not result in any physical changes to the environment beyond those described in the Village One Specific Plan. Village One would continue to be developed as a planned community; therefore, the project would not divide an established community. There would be no impact, and no mitigation is required.

b., c. The Village One Specific Plan has been adopted by the City of Modesto and has been incorporated into the Modesto General Plan. The proposed project would be consistent with the Village One Specific Plan. There are no other applicable land use or conservation plans for the project area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
X.	**MINERAL RESOURCES.** Would the project:				
a.	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☑

b.	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☑

Responses to Checklist Questions

a., b. No known mineral resources or important recovery sites are located in the Village One Specific Plan Area. There would be no impact. No mitigation is required.

XI. NOISE. Would the project:

c.	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☑
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☑
e.	Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑

Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.

a., c. The Village One Specific Plan program EIR found that proposed residential housing in the project area would be exposed to noise levels exceeding general plan thresholds, but mitigation measures were incorporated to reduce the impact to a less-than-significant level. The proposed project would not change project-related noise-generating activities. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that the buildout of Village One would not expose people to, or generate excessive, groundborne vibration or groundborne noise levels. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR found that construction of the proposed project would result in a substantial temporary increase in ambient noise levels for residential housing. However, mitigation measures were incorporated into the program EIR to reduce the impact to a less-than-significant

level. The proposed project would not change construction activities. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan program EIR found that the Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the Village One Specific Plan area. However, take-offs and landings take place parallel to and outside the Specific Plan boundaries, and flight patterns are generally situated east of the project area. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XII.	**POPULATION AND HOUSING.** Would the project:				
a.	Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	☐	☑
b.	Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
c.	Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑

Impacts on population and housing are analyzed on pages III-95 through III-99 of the 1994 Supplement.

Responses to Checklist Questions

a.–c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would not result in significant adverse impacts on population and housing units. No mitigation is required.

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact

XIII. PUBLIC SERVICES. Would the project:

a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:				
Fire protection?	☐	☐	☑	☐
Police protection?	☐	☐	☑	☐
Schools?	☐	☐	☐	☑
Parks?	☐	☐	☑	☐
Other public facilities?	☐	☐	☑	☐

Impacts on public services are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the only significant impact that buildout of the Village One Specific Plan area would have on public services would be in the areas of fire protection and law enforcement. Mitigation measures were identified in the program EIR to reduce the level of this impact to a less-than-significant level. No other significant impacts on public services were identified. The proposed project would not change the provision of public services. There would be no additional impact. No mitigation is required.

	Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
XIV. RECREATION. Would the project:				
a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☑
b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☐	☑

Impacts on recreation are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a., b. No significant impacts on recreation were identified in the program EIR. The proposed project would not change the provision of parks and recreation facilities. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
XV.	**TRANSPORTATION/TRAFFIC.** Would the project:				
a.	Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	☐	☐	☐	☑
b.	Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☑
c.	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☑
d.	Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☑
e.	Result in inadequate emergency access?	☐	☐	☐	☑
f.	Result in inadequate parking capacity?	☐	☐	☐	☑
g.	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☑

Impacts on transportation and traffic are analyzed on pages III-40 – III-44 of the 1994 Supplement.

Responses to Checklist Questions

a., b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system and would affect level of service at several intersections. Mitigation measures identified in the program EIR were identified to reduce impacts to a less-than-significant level for all intersections except the Briggsmore Avenue/Oakdale Avenue intersection. For that intersection, the impact was determined to be significant and not mitigable. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the 1994 Supplement. The proposed project would not alter traffic patterns in the Specific Plan area or result in additional trips. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR did not find that the buildout of the Village One Specific Plan area would result in a change in air traffic patterns. The proposed project does not include any elements that would affect air traffic patterns. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area included any hazardous design features or increased any incompatible uses for roads in the project area. The proposed project would not change roadway design or land uses. There would be no impact. No mitigation is required.

e. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate emergency access in the Specific Plan area. The Specific Plan includes provision of adequate roadways to serve the Village One development. The proposed project would not change roadway design or land uses contained within the Specific Plan. There would be no additional impact. No mitigation is required.

f. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate parking capacity in the Specific Plan area. The provision of parking, consistent with zoning requirements for the proposed project, is included in the project design. There would be no impact. No mitigation is required.

g. The proposed project does not include any changes related to transportation policies, and would have no impact. No mitigation is required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☑

b.	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☑
c.	Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☑
d.	Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?	☐	☐	☐	☑
e.	Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☑
f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☑
g.	Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☑

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a. The City provides sewer services to the Village One area. All wastewater would be directed to city wastewater treatment facilities. No wastewater discharges would occur in the project area. The proposed project would not increase the amount of wastewater that will be generated at buildout of the Specific Plan area. There would be no additional impact. No mitigation is required.

b., e. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on water or wastewater infrastructure. There would be no additional impact as a result of the proposed project. No mitigation is required.

c. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed in order to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on stormwater drainage facilities. An update to the Storm Drainage Master Plan has been prepared and is under consideration by the City.

An addendum to the Village One program EIR for the Storm Drainage Master Plan has also been prepared and is under consideration by the City. The project would not result in any additional impacts or the need for any additional mitigation beyond that assessed in the Addendum to the Village One Program EIR for the Storm Drainage Master Plan.

d. The Village One Specific Plan program EIR found that, with mitigation, the effects of buildout of the Village One Specific Plan area on water supply would be less than significant. There would be no additional impact resulting from the proposed project. No mitigation is required.

f., g. The Village One Specific Plan program EIR found that the area's landfills have sufficient permitted capacity to accommodate the project's solid waste disposal needs. The proposed project would not result in any physical changes in the environment or the generation of any additional solid waste. There would be no impact. No mitigation is required.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE.

a.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☑
b.	Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☐	☑
c.	Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☑

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

Responses to Checklist Questions

a. As described above, the proposed project would not result in any significant impacts on the environment over and above those associated with

implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

b. As described above, the proposed project would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

c. As described above, the proposed project would not result in any significant impacts affecting humans over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

V. MITIGATION APPLIED TO PROJECT

The following mitigation measures developed in the 1994 Village One Specific Plan Supplement to the Program EIR are appropriate to the project and will be incorporated into the project. Therefore, the environmental effects of the project were covered by the program EIR.

1. Prior to the Final Inspection, Building Inspection Division shall verify that all fireplaces and wood stoves in residential units are equipped to meet the performance and emissions standards set forth in Part 60, Title 40, Subpart AAA Code of Federal Regulations, February 26, 1988.

2. Construction noise is regulated by the City's Noise Ordinance, Section 4.9 – 103. Construction noise is generally permitted during the hours of 7:00 am to 9:00 pm. To avoid complaints from nearby residents, and possible citations, the full text of the ordinance should be reviewed by builders prior to construction. City construction projects will be monitored by Construction Inspection for conformance with the City's Noise Ordinance.

3. During construction activities, Building Inspection Division shall verify that contractors observe the requirements of City of Modesto Standard Specification 2.07(A)(5), Dust Control, and when necessary, Regulation VIII of the San Joaquin Valley Unified Air Pollution Control District to control the generation of PM 10 from construction related dust and emissions.

4. "All deeds for lots sold in this subdivision shall contain the following statement:

   'This lot is located near existing agricultural operations. Residents may be subjected to customary and accepted farming practices that produce noise, dust, smoke and other impacts. The grantee accepts the potential impacts of customary farming practices, which may include the application and use of various, chemicals through spraying, spreading or other customary means in accordance with applicable state and federal regulations regarding such applications. The grantee also acknowledges the need to avoid activities that conflict with nearby farm uses.'"

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-100

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(578). (DUDLEY-CASH)

WHEREAS, a verified application for an amendment to Sections 29-3-9 and 32-3-9 of the Zoning Map was filed by William Dudley-Cash on June 20, 2006, to rezone from Commercial-Industrial Zone, C-M, to Planned Development Zone, P-D(578), to allow a mixed-use development, property located on the east corner of Seventh Street and J Street described as follows:

C-M to P-D(578)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the South half of Section 29, Township 3 South, Range 9 East, and a portion of the North half of Section 32, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

Lots 27, 28, 29, 30, 31, and 32 in Block 42 of the City of Modesto, as shown on that map of City Blocks of the City of Modesto recorded in Volume 5 of Maps, Page 42, Stanislaus County Records; also including the Northeast half of 7th Street, the Southeast half of J Street, and the Southwest half of the alley, all being immediately adjacent to the above described properties.

WHEREAS, after a public hearing held on December 18, 2006, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2006-77, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Rezoning is consistent with the General Plan designation for the site. The site is within the Redevelopment Planning District (RPD) outlined in the Modesto Urban Area General Plan. The land use designation for this site within the RPD is Commercial-Residential-Public (CRP).

2. The proposed Planned Development Zone furthers goals outlined in Redevelopment Planning District, such as mixed-use developments and the infill of the development area.

3. The proposed Planned Development Zone, by reason of its plot plan design and conditions of approval, will be compatible with the surrounding land uses.

WHEREAS, said matter was set for a public hearing of the City Council to be held on February 6, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of William Dudley-Cash for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2006-77 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3434-C.S. on the sixth day of February 2007, rezoning the above-described property from Commercial-Industrial Zone, C-M, to Planned Development Zone, P-D(578).

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(578), is hereby approved subject to the following conditions:

1. Prior to issuance of a building permit of phase two (restaurant/loft), the applicant shall submit, for approval by the Community and Economic Development Director, a set of revised plot plans and building elevations showing any reduction or alteration in the building footprint and providing architecture and landscaping in accordance with the City's adopted Commercial and Industrial Guidelines. All development shall conform to this revised plan as amended in red, stamped approved by the Planning Commission.

2. Prior to issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

3. Prior to issuance of a building permit, the applicant shall submit an application for a lot line adjustment. Prior to occupancy the applicant shall complete a lot line adjustment.

4. Fences or walls shall be constructed prior to occupancy and shall be as follows:

   A six-foot-high wood fence along the property line to the southeast on Seventh Street, adjacent to or as a replacement of the existing four-foot-high chain-link fence.

5. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

6. Street dedication consistent with Standard Specifications shall be made prior to the issuance of a building permit or at any time requested by the City Engineer or designee to alleviate a health, safety, or traffic problem in the area.

7. Street improvements consistent with Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the City Engineer or designee to alleviate a health, safety, or traffic problem in the area.

8. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

9. Prior to issuance of a building permit, the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

10. Electric facilities and overhead lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities shall be granted as required. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules. Costs for relocation and/or undergrounding the District's facilities at the request of others will be borne by the requesting party.

11. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.

12. Trash enclosures shall be of a size and design to permit the storage and removal of required recyclable material receptacles, or a separate enclosure of the collection for recyclable materials shall be provided as approved by the Public Works Director or designee.

13. Trash enclosures shall be bermed to prevent stormwater run-on and graded to drain to adjacent landscape areas as required by the Public Works director or designee.

14. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building and Development Services all fire hydrants and FDC's required by the Fire Chief. Fire hydrant spacing and distribution for this zone is 300 feet, not to exceed 150 feet on a street frontage to a hydrant. All hydrants and FDC's required by the Fire Chief shall be installed and operable prior to construction of any structures.

15. Fire Department Connection (FDC) for automatic fire sprinklers should be accessible and located within 90 feet of a fire hydrant. FDC inlets should be no more than 48 inches AFF.

16. The developer shall install automatic fire sprinklers in the proposed residence/office and all other buildings over 5,000 sq ft.

17. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as approved by the Public Works Director or designee. Storm drain improvements shall be constructed in accordance with the approved plans.

18. All signs for the office shall comply with the sign requirements of the P-O Zone, and the restaurant shall comply with the sign requirements of the C-3 Zone.

19. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

20. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

21. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

22. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

23. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

24. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

25. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

26. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

27. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

28. Suspend excavation and grading activity when winds exceed 20 mph.

29. Limit the area subject to excavation, grading and other construction activity at any one time.

30. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

    The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

    a. A hammer or any other device or implement used to pound or strike an object.

b. An impact wrench or other tool or equipment powered by compressed air.

c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

31. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(578):

The construction program be accomplished in two phases as follows:

1. Phase I – Construction to begin on or before two years after City Council approval and completion to be not later than three years after City Council approval.

2. Phase II – Construction to begin on or before three years after City Council approval and completion to be not later than four years after City Council approval.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(578), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By Steve Mitchell
Community & Economic Development Department
Planning Division

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-101

Print

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTIONS 29-3-9 AND 32-3-9 OF THE ZONING MAP TO REZONE FROM COMMERCIAL INDUSTRIAL ZONE, C-M, TO PLANNED DEVELOPMENT ZONE, P-D(578) PROPERTY LOCATED ON THE EAST CORNER OF SEVENTH AND J STREETS (DUDLEY-CASH)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, William Dudley-Cash has proposed that the zoning designation for property located on the east corner of 7th and J Streets be amended to rezone from Commercial-Industrial Zone, C-M, to a new Planned Development Zone, P-D(578), in the City of Modesto to allow a mixed use development, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED No. 2006-69 ("Initial Study") reviewed the proposed amendment to the Zoning Map and rezone to P-D(578) project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed

project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines begininning on January 15, 2007, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on February 6, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the Zoning Map and rezone to P-D(578) project, a copy of which is attached hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of February, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2006-69

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2006- 69)

For the proposed:

Rezone from C-M to a (PD) Planned Development Zone for a 9,500 square-foot mixed- use-building complex at 924-930 J Street
(Cash Dudley, Applicant)

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

December 18, 2006

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the **Rezone from C-M to a (PD) Planned Development Zone for a 9,500 square-foot mixed- use building complex at 924-930 J Street** is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Rezone from C-M to a (PD) Planned Development Zone for a 9,500 square-foot mixed- use building complex at 924-930 J Street

B. Address or Location: 924-930 7th Street

C. Applicant: Edna Faye Cash- Dudley, William Arliss Dudley- Cash, 1608 F Street, Modesto, CA 95354

D. City Contact Person: David Wage

Project Manager: David Wage, Assistant Planner
Department: Community and Economic Development Department
Phone Number: (209) 577-5302
E-mail address: dwage@modestogov.com

E. Current General Plan Designation(s): "C-M" Commercial-Industrial

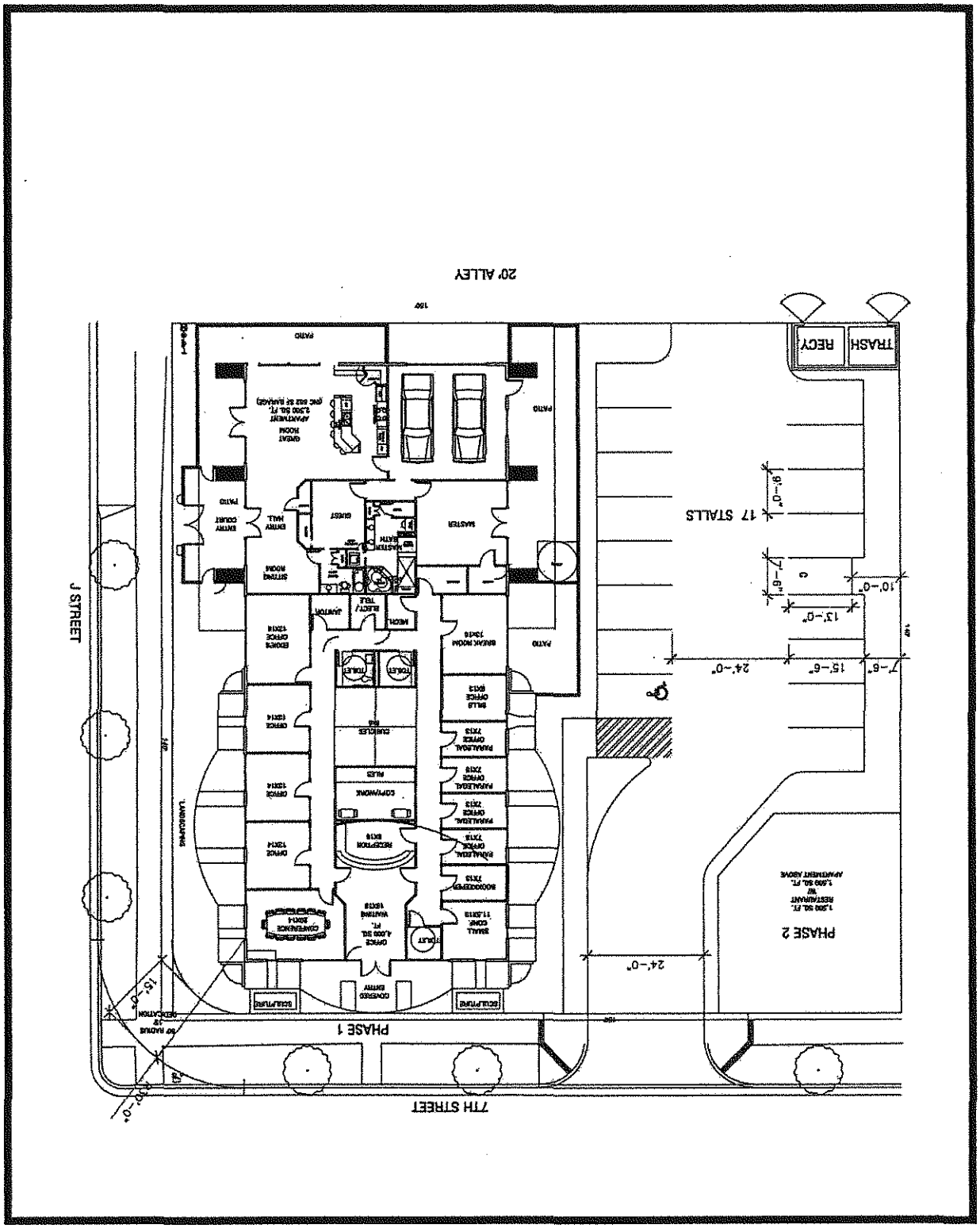
F. Current Zoning Classification(s): RPD, Redevelopment Planned District

G. Surrounding Land Uses:

North:	(C-M) St. Stanislaus Church
South:	(C-M) residential units
East:	(C-M) industrial
West:	(C-M) residential units

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The applicant proposes a rezone to a Planned Development and the construction of 9,500 square-foot mixed-use building complex located on two vacant lots at 924-930 7th Street. The development would include a home residence, offices, a two-story restaurant/apartment building and fifteen (15) off street parking spaces.



North

PLOT PLAN

(Large-format version of plan attached to Commissioner' agenda)

City of M
General

May 31, 2006

I. Other Public Agencies Whose Approval is Required:

None.

IIII. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ____ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ____ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Project Manager	Assistant Planner Title	December 18, 2006 Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X ☐

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X ☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

DISCUSSION:
This is an application to rezone to P-D and build a mixed-use complex. The addition of offices, a residence, a restaurant and an apartment is compatible with the existing residential, commercial and industrial uses located in this area. Due its size and nature, the proposed land use will not significantly change existing road capacities or levels of service.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project.*

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	YES	NO
(1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.	☐	X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

YES NO

(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and found:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. The design and layout of the proposed parking area will comply with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a building addition for an existing church. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

DISCUSSION:

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project site and the surrounding property are located within a fully developed urbanized area, both inside and outside the corporate City limits.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant.*

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. *This cumulative impact is considered significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project. It is not on or adjacent to any park sites, nor is it near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity; it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is infill development that will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

2. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

Noise Measures:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

   The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

A. A hammer, or any other device or implement used to pound or strike an object.

B. An impact wrench, or other tool or equipment powered by compressed air.

C. A hand-powered saw.

D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

1. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K

Storm Drainage Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-102

Print

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF CAROLINE MITTON FROM THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

WHEREAS, CAROLINE MITTON was appointed a member of the Citizens Housing & Community Development Committee on October 17, 2000, and

WHEREAS, CAROLINE MITTON has tendered her resignation from the aforementioned committee, and

WHEREAS, CAROLINE MITTON has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THEREFORE, BE IT RESOLVED that the resignation of CAROLINE MITTON from the Citizens Housing & Community Development Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to CAROLINE MITTON for her outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-103

Print

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF ART DE WERK FROM THE AIRPORT ADVISORY COMMITTEE

WHEREAS, ART DE WERK was appointed a member of the Airport Advisory Committee by the City of Ceres, as its representative, on August 15, 2000, and

WHEREAS, ART DE WERK has served as Chairman since February 2002, and

WHEREAS, ART DE WERK has tendered his resignation from the aforementioned committee effective March 1, 2007, and

WHEREAS, ART DE WERK has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of ART DE WERK from the Airport Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to ART DE WERK for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-104

A RESOLUTION APPOINTING JACKIE WILSON TO THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Dryden Park Women's Golf Club recommends JACKIE WILSON, as its representative, to the Golf Courses Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. JACKIE WILSON, representing Dryden Park Women's Golf Club, is hereby appointed to the Golf Courses Advisory Committee with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Golf Courses Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-105

A RESOLUTION APPROVING A MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH GOODWIN CONSULTING GROUP FOR THE ADMINISTRATION OF COMMUNITY FACILITIES DISTRICTS AND ASSESSMENT DISTRICTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto ("City") has determined that Community Facilities Districts ("CFDs") and Assessment Districts ("ADs") are necessary funding mechanisms to construct and maintain infrastructure for new development areas, and

WHEREAS, the City has also determined that it is necessary to administer the annual tax levies including tax enrollment and delinquency reporting, answer citizen inquiries, prepare cash flow projections, coordinate foreclosure activities, administer bond redemptions if necessary, and ensure compliance with disclosure requirements for future CFDs and/or ADs, and

WHEREAS, Goodwin Consulting Group, Inc. ("Consultant") represents that it is qualified, willing and able to provide said services and prepare such document(s), and

WHEREAS , City and Consultant desire to enter into a Master Professional Services Agreement for Consultant Services ("Master Agreement") pursuant to which Consultant shall administer existing and future CFDs and perform other related on-call services as assigned by City, and

WHEREAS, prior to commencement of services under the Master Agreement, all work and services to be provided to City by Consultant shall be outlined in a Task Order for each project and shall be approved by the City in accordance with City's policies regarding contracting authority,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Master Professional Services Agreement for Consultant Services between the City of Modesto and Goodwin Consulting Group for the administration of existing and future Community Facilities Districts and Assessment Districts is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-106

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO APPROVING AN INTERFUND LOAN FROM THE UNAPPROPRIATED GENERAL FUND RESERVE TO THE SOLID WASTE SPECIAL REVENUE FUND FOR THE PURPOSE OF PAYING COSTS RELATED TO A SITE ASSESSMENT STUDY AND THE DEVELOPMENT OF A MITIGATION AND MONITORING PLAN FOR THE CLOSED CARPENTER ROAD LANDFILL AND AMENDING THE BUDGETS OF THE GENERAL FUND AND THE SOLID WASTE SPECIAL REVENUE FUND TO REFLECT THE LOAN AND THE APPROPRIATION OF THE STUDY COSTS

WHEREAS, on January 2, 2007 the City Council approved the release of a Request for Proposal to obtain bids for the preparation of a Site Assessment Study and Mitigation and Monitoring Plan for the closed Carpenter Road Landfill; and

WHEREAS, the Solid Waste Special Revenue Fund does not have the resources to pay for the cost of these studies; and

WHEREAS, the City Council directed that the General Fund should loan to the Solid Waste Special Revenue fund the amount of $150,000.00 to pay for the cost of these studies; and

WHEREAS, the operating budgets of the General Fund and the Solid Waste Special Revenue Fund must be amended to reflect the loan and appropriation of the study costs as shown in **Exhibit A** to this resolution, which is incorporated by reference herein;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Director to take all steps necessary to amend the budgets of the General Fund and the Solid Waste Special Revenue Fund as shown in Exhibit A to this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13h day of February 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Woods, City Attorney

Exhibit A

General Fund

Expense

Transfer Out	0100-701-4402-7031

Solid Waste Special Revenue

Revenue

Transfer-In	0310-701-4402-9010

Expense

Contract Services	0310-355-4402-0235

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-107

A RESOLUTION APPROVING AN AGREEMENT WITH EDAW, INC. TO PROVIDE PHASE 1.2 CONSTRUCTION DOCUMENTS, CONSTRUCTION OBSERVATION/ADMINISTRATION AND PERMITTING SUPPORT FOR THE GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK AT A COST NOT TO EXCEED $380,841.00, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the Parks, Recreation and Neighborhoods Department, on behalf of the Tuolumne River regional Park Joint Powers Authority began a project to plan for the future development of the Tuolumne River Regional Park (TRRP) when the Joint Powers Authority of the City of Modesto, City of Ceres and Stanislaus County adopted the TRRP Master Plan in December 2001, and

WHEREAS, the Gateway Parcel is one of six planning areas addressed in the TRRP Master Plan, and

WHEREAS, the TRRP Commission envisions the Gateway Parcel to be a high-profile public gathering place close to the commercial centers of Modesto and Ceres and accessible to the rest of the region along major arterial streets and State Route (SR) 99, as defined in the TRRP Master Plan, and

WHEREAS, in 2003, the City of Modesto, as Lead Agency, accepted the recommendation of the TRRP Commission and approved the development of Precise Plan and Construction Documentation to be completed by one firm, and

WHEREAS, the Gateway Parcel Precise Plan is intended to achieve the objectives of the Master Plan and to provide additional design detail needed to implement the proposed park improvements within the Gateway Parcel, and

WHEREAS, after an RFP process, it was determined that EDAW, Inc. (EDAW) was the most qualified to complete these projects, and

WHEREAS, EDAW has since completed the Precise Plan and Initial Study, 90% Construction Documentation and permitting for Phase 1, and 100% Construction Documentation and permitting for Phase 1.1, and

WHEREAS, on December 15, 2006, the City of Modesto, on behalf of TRRP, accepted $1,526,000 in state funding from Proposition 50 for the development and construction of Phase 1.2, which includes the production of Construction Documents, and

WHEREAS, EDAW, Inc. is prepared to produce the Phase 1.2 Construction Documents, based on the 90% construction documents previously produced and to return biddable documents in May 2007, which will allow the City time to solicit bids to complete the construction work of Phase 1.2 between August and November of 2007, and

WHEREAS, this time-frame is necessary because of the time limitations imposed by State and Federal regulatory agencies that limit construction access to the river channel from July 15 to November 1, and

WHEREAS, with the acceptance of the Proposition 50 contract in December 2006 for funds from the state, TRRP has the necessary funding in place to hire EDAW, Inc. to do this work, and

WHEREAS, the Tuolumne River Regional Park Commission met on October 12, 2005, and recommended the acceptance of a proposal from EDAW, Inc. to provide Phase 1 Construction Documents, Construction Observation/Administration and Permitting Support for the Gateway Parcel of the Tuolumne River Regional Park,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement with EDAW, Inc. to provide Phase 1.2 Construction Documents, Construction Observation/Administration and Permitting Support for the Gateway Parcel of the Tuolumne River Regional Park at a cost not to exceed $380,841.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-108

A RESOLUTION AMENDING THE FY 06-07 CIP TO ESTIMATE $1,000,000 IN REVENUE FROM THE COUNTY OF STANISLAUS PUBLIC FACILITY FEES AND APPROPRIATE SAID REVENUE TO CIP PROJECT 8910-310-N441, TRRP GATEWAY PROJECT, FOR CONSTRUCTION OF PHASE 1.2 IN THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL.

WHEREAS, the Parks, Recreation and Neighborhoods Department, on behalf of the Tuolumne River regional Park Joint Powers Authority began a project to plan for the future development of the Tuolumne River Regional Park (TRRP) when the Joint Powers Authority of the City of Modesto, City of Ceres and Stanislaus County adopted the TRRP Master Plan in December 2001, and

WHEREAS, the Gateway Parcel is one of six planning areas addressed in the TRRP Master Plan, and

WHEREAS, the TRRP Commission envisions the Gateway Parcel to be a high-profile public gathering place close to the commercial centers of Modesto and Ceres and accessible to the rest of the region along major arterial streets and State Route (SR) 99, as defined in the TRRP Master Plan, and

WHEREAS, the TRRP Commission has discussed and agreed to recommend that the Stanislaus County Board of Supervisors and the Modesto City Council simultaneously approve the use of Public Facilities Fees (PFF) and Capital Facilities Fees (CFF), respectively, to fund the Gateway parcel as an all or nothing proposal to help reduce overall construction costs and finish Phase I, and

WHEREAS, County and City staff agreed to take this proposal to their respective bodies on the same day to demonstrate solidarity in their commitment to make the Gateway a significant asset to the region, and

WHEREAS, at its meeting on February 13, 2007, the Board of Supervisors of the County of Stanislaus adopted a resolution committing $1,000,000 in County Public Facilities Fees for construction of Phase 1.2 in the Tuolumne River Regional Park Gateway Parcel,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 06-07 CIP to estimate $1,000,000 in revenue from the County of Stanislaus Public Facility Fees and appropriate said revenue to CIP Project 8910-310-N441, TRRP Gateway Project, for construction of Phase 1.2 in the Tuolumne River Regional Park Gateway Parcel.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-109

A RESOLUTION AMENDING THE FY 06-07 CAPITAL IMPROVEMENT PROGRAM (CIP) TO: A) REDUCE EXPENDITURES IN PROJECT 1350-310-P503, NEW PARKLAND ACQUISITION, BY $1,000,000; B) INCREASE 1350-800-8000-8003,THE CITY OF MODESTO PARKS' CAPITAL FACILITY FEES FUND RESERVE BY $1,000,000; C) RE-APPROPRIATE $1,000,000 TO A NEW FUND 1350 CIP; AND, D) CONTRIBUTE $1,000,000 TO CIP PROJECT 8910-310-N441, TRRP GATEWAY PROJECT, FOR CONSTRUCTION OF PHASE 1.2 IN THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL.

WHEREAS, the Parks, Recreation and Neighborhoods Department, on behalf of the Tuolumne River regional Park Joint Powers Authority began a project to plan for the future development of the Tuolumne River Regional Park (TRRP) when the Joint Powers Authority of the City of Modesto, City of Ceres and Stanislaus County adopted the TRRP Master Plan in December 2001, and

WHEREAS, the Gateway Parcel is one of six planning areas addressed in the TRRP Master Plan, and

WHEREAS, the TRRP Commission envisions the Gateway Parcel to be a high-profile public gathering place close to the commercial centers of Modesto and Ceres and accessible to the rest of the region along major arterial streets and State Route (SR) 99, as defined in the TRRP Master Plan, and

WHEREAS, the TRRP Commission has discussed and agreed to recommend that the Stanislaus County Board of Supervisors and the Modesto City Council simultaneously approve the use of Public Facilities Fees (PFF) and Capital Facilities Fees (CFF), respectively, to fund the Gateway parcel as an all or nothing proposal to help reduce overall construction costs and finish Phase I, and

WHEREAS, County and City staff agreed to take this proposal to their respective bodies on the same day to demonstrate solidarity in their commitment to make the Gateway a significant asset to the region, and

WHEREAS, projects in the Tuolumne River Regional Park are eligible for Parks Capital Facilities Fees funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 06-07 Capital Improvement Program (CIP) to reduce expenditures in project 1350-310-P503, New Parkland Acquisition, by $1,000,000.

BE IT FUTHER RESOLVED that the Council approves amending the FY 06-07 CIP to increase 1350-800-8000-8003,the City of Modesto Parks' Capital Facility Fees Fund Reserve by $1,000,000.

BE IT FUTHER RESOLVED that the Council approves amending the FY 06-07 CIP to re-appropriate $1,000,000 to a new Fund 1350 CIP.

BE IT FUTHER RESOLVED that the Council approves amending the FY 06-07 CIP to contribute $1,000,000 to CIP Project 8910-310-N441, TRRP Gateway Project, for construction of Phase 1.2 in the Tuolumne River Regional Park Gateway Parcel.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-110

A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS TO PREPARE A 35% PROJECT DESIGN AND A PRELIMINARY DESIGN REPORT (PDR) FOR PHASE 1A AND PHASE 1B TERTIARY TREATMENT FACILITIES PROJECT IN AN AMOUNT NOT TO EXCEED $1,113,700, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto operates and maintains a secondary treatment system at 7007 Jennings Road, and

WHEREAS, based on the recent analysis prepared for the Wastewater Master Plan, the City expects that tertiary treatment will be required to meet anticipated regulatory requirements, and

WHEREAS, a phased approach will allow the City to comply with expected regulatory issues and continue with development within a short timeframe, and

WHEREAS, the Wastewater Master Plan and near term capacity study recommended that Phase 1A should consist of a temporary facility to be phased out when Phase 2 is completed, and

WHEREAS, an alternative approach to regroup Phase 1A and Phase 1B to the same site will be analyzed, and

WHEREAS, the City Administrative Directive 3.1 was followed to select a professional engineering design consultant, and

WHEREAS, following a Request for Qualifications for engineering design services, which was sent to all listed engineering firms, seven Statements of Qualifications were received, and

WHEREAS, of the seven Statements of Qualifications, two firms were short listed for Proposals and Interviews, and

WHEREAS, Carollo Engineers was deemed most qualified and selected for preliminary engineering design services, and

WHEREAS, the Public Works Director has recommended accepting the proposed contract with Carollo Engineers to complete the Preliminary Design Services for the Phase 1A and Phase 1B Tertiary Treatment Facility in an amount not to exceed $1,113,700,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Carollo Engineers to prepare a 35% project design and a Preliminary Design Services Report for Phase 1A and Phase 1B Tertiary Treatment Facilities project in an amount not to exceed $1,113,700,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-111

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "REMODEL OF EXISTING WATER QUALITY CONTROL LABORATORY," ACCEPTING THE BID AND APPROVING A $424,925.00 CONTRACT WITH GWINN CONSTRUCTION, INC., FOR THE PROJECT TITLED, " REMODEL OF EXISTING WATER QUALITY CONTROL LABORATORY," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, the low bid received for "Remodel of Existing Water Quality Control Laboratory" was opened at 11:00 a.m. on January 23, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the plans and specifications included the remodel of the existing laboratory at the City of Modesto Primary Wastewater Treatment Facility, and

WHEREAS, the Public Works Director has recommended that the bid received from Gwinn Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Gwinn Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the "Remodel of Existing Water Quality Control Laboratory".

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of $424,925.00 and hereby awards Gwinn Construction, Inc., the contract titled "Remodel of Existing Water Quality Control Laboratory."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-112

A RESOLUTION APPROVING A CFD RIGHT-OF-WAY ACQUISITION AGREEMENT BETWEEN THE VILLAGE ONE COMMUNITY FACILITIES DISTRICT NO. 1996-1 AND THE SYLVAN SCHOOL DISTRICT FOR THE PURCHASE OF A .48 ACRE PARCEL LOCATED ON FLOYD AVENUE AT LINCOLN OAK DRIVE FOR $81,600.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED PROPERTY DOCUMENTS AS GRANTEE ON BEHALF OF THE CITY OF MODESTO

WHEREAS, the Floyd Avenue Improvement project between Oakdale Road and Roselle Avenue requires the acquisition of right-of-way along the north side of Floyd Avenue, and

WHEREAS, the City purchased all but one parcel before awarding the construction contract, and

WHEREAS, the City was unable to acquire the remaining parcel, Assessor's Parcel Number 077-008-027, a .48 acre parcel owned by the Sylvan School District, because the City and Sylvan School District were unable to agree upon a purchase price at the time, and

WHEREAS, on April 26, 2005, the District Administrator approved an Access and Indemnity Agreement between the Village One Community Facilities District No. 2004-1 (Village One #2) and the Sylvan School District that allowed the City access to the parcel for construction purposes while the Sylvan School District and the City negotiated a fair price, and

WHEREAS, after reviewing multiple appraisals, the City offered the Sylvan School District $170,000 per acre or $81,600 for the parcel and on January 16, 2007, the

Sylvan School District Board of Trustees accepted the offer and approved the CFD Right-of-Way Acquisition Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the CFD Right-of-Way Acquisition Agreement between the Village One Community Facilities District No.1996-1 and the Sylvan School District for the purchase of a .48 Acre parcel located on Floyd Avenue at Lincoln Oak Drive for $81,600.00.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related property documents as Grantee on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-113

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH STORM WATER CONSULTING INC., IN THE NOT-TO-EXCEED AMOUNT OF $107,600 TO DEVELOP AN ENGINEER'S REPORT NEEDED FOR THE STORM DRAINAGE UTILITY RATE AND CONNECTION FEE ANALYSIS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto is nearing the completion of its Storm Drainage Master Plan (SDMP), and

WHEREAS, the City is desirous to conduct a Storm Drainage Utility Rate and Connection Fee Analysis, and

WHEREAS, the principal of Storm Water Consulting, Inc., has intimate knowledge of the SDMP (as a past employee of the Stantec Consulting team working on its development) and its modeling software, and

WHEREAS, City staff requested a project proposal from Storm Water Consulting Inc., and

WHEREAS, City staff negotiated an Agreement with Storm Water Consulting Inc., to provide all of the professional services needed to develop an Engineer's Report for the Storm Drainage Utility Rate and Connection Fee Analysis based on the SDMP, on a time and materials basis in the not-to-exceed amount of $107,600, and

WHEREAS, City staff recommends that Storm Water Consulting Inc., be hired to develop an Engineer's Report for the Storm Drainage Utility Rate and Connection Fee Analysis based on the SDMP, and

WHEREAS, Stantec Consulting has expressed its support of this action due to the requirements and particular circumstances of this project (Stantec Consulting will be a sub-consultant to Storm Water Consulting Inc., for this work), and

WHEREAS, the Finance Committee reviewed this item on January 29, 2007, and recommended its approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Storm Water Consulting Inc., in the not-to-exceed amount of $107,600 for developing an Engineer's Report for the Storm Drainage Utility Rate and Connection Fee Analysis based on the SDMP.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-114

A RESOLUTION AMENDING THE CURRENT OPERATING BUDGET BY AUTHORIZING THE TRANSFER OF $125,000 FROM THE STORM DRAINAGE FUND RESERVE (6280-800-8000-8003) AND REAPPROPRIATING $107,600 TO THE STORM DRAIN ENGINEERING ACCOUNT (6280-440-5319-0235) AND $17,400 TO THE STORM DRAIN ENGINEERING ACCOUNT (6280-440-5319-0255)

WHEREAS, the City of Modesto is nearing the completion of its Storm Drainage Master Plan (SDMP), and

WHEREAS, the City is desirous to put together a work plan aimed at developing a financing strategy to fund the proposed improvements identified in the SDMP, and

WHEREAS, City staff negotiated an Agreement with Storm Water Consulting Inc., to provide all of the professional services needed to develop an Engineer's Report for the Storm Drainage Utility Rate and Connection Fee Analysis (as a first step in the work plan) based on the SDMP, on a time and materials basis, in the not-to-exceed amount of $107,600, and

WHEREAS, City staff has recommended Storm Water Consulting Inc., be hired to develop an Engineer's Report for the Storm Drainage Utility Rate and Connection Fee Analysis, and

WHEREAS, the Storm Drain Engineering account does not have sufficient funds to cover the cost of these services, the current Operating Budget needs to be amended by authorizing the transfer of $125,000 from the Storm Drainage Fund Reserve Account (6280-800-8000-8003) and reappropriating $107,600 to the Storm Drain Engineering Account (6280-440-5319-0235) and $17,400 to the Storm Drain Engineering Account (6280-440-5319-0255) based on the following:

Agreement with Storm Water Consulting Inc. for Engineer's Report	$107,600
Contract Administration by City Staff	$ 17,400
TOTAL ANTICIPATED EXPENDITURES:	$125,000

WHEREAS, the Finance Committee reviewed this item on January 29, 2007, and recommended its approval,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby amends the operating budget and approves the transfer of funds as set forth herein to fully fund the Agreement with Storm Water Consulting Inc., in the not-to-exceed amount of $107,600 to develop an Engineer's Report needed for Storm Drainage Utility Rate and Connection Fee Analysis, and contract administration by City staff in the amount of $17,400 for a total of $125,000 for the Storm Drain Engineering project by reducing Account 6280-800-8000-8003 (Storm Drainage Fund Reserves) and reappropriating $107,600 to Account 6280-440-5319-0235 (Storm Drain Engineering–Services, Professional & Other) and $17,400 to Account 6280-440-5319-0255 (Storm Drain Engineering–Services City Forces).

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the steps necessary to amend the Operating Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-115

Print

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH JONES AND STOKES ASSOCIATES, INC., FOR ENVIRONMENTAL REVIEW WORK RELATED TO COMPLETION OF THE STORM DRAINAGE MASTER PLAN IN THE NOT-TO-EXCEED AMOUNT OF $90,942, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto is nearing the completion of its Storm Drainage Master Plan (SDMP) and needs to complete the project's associated Environmental Review, and

WHEREAS, using Professional Consulting Services will enable this project to continue moving forward in a timely manner, and

WHEREAS, the City is desirous of taking full advantage of past experiences and the breadth of knowledge certain consultants have obtained while working for the City, and

WHEREAS, Jones & Stokes Associates, Inc., (Jones & Stokes) is on the City's pre-qualified short list for providing Environmental Review services, and

WHEREAS, Jones & Stokes has demonstrated their clear understanding of the City's environmental challenges and City staff is familiar with the high quality of their work, and

WHEREAS, staff requested a proposal from Jones & Stokes to complete the project's Environmental Review work, and

WHEREAS, staff negotiated an agreement with Jones & Stokes to provide all of the professional services needed to complete the SDMP's Environmental Review work, on a time and materials basis, for a "not to exceed" amount of $90,942, and

WHEREAS, staff is recommending Jones & Stokes be hired to complete the Environmental Review work for the SDMP, and

WHEREAS, the Finance Committee reviewed this item on January 29, 2007, and recommended its approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Jones & Stokes Associates, Inc., in the not-to-exceed amount of $90,942 for conducting the Environmental Review for the SDMP.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-116

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH HARRIS AND ASSOCIATES FOR CONSTRUCTION MANAGEMENT SERVICES OF THE LA LOMA AVENUE SANITARY SEWER LIFT STATION REPLACEMENT PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $200,725.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on January 23, 2007, by Resolution No. 2007-073, City Council awarded a construction contract in the amount of $1,794,000 to Preston Pipelines, Inc., for construction of the La Loma Avenue Sanitary Sewer Lift Station Replacement Project (Lift Station), and

WHEREAS, due to the current staffing levels, a construction management company is being tasked with the management of the project, and

WHEREAS, the selection process for construction management services followed the City's selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed a Request for Qualifications for construction management services to all firms that had previously indicated an interest in providing construction management services to the City, and

WHEREAS, four specialized consulting firms of construction management services were asked to provide a proposal, and

WHEREAS, the City's Selection Committee reviewed the proposals submitted and held interviews with the top two firms, and

WHEREAS, the firm of Harris and Associates was considered to be the most qualified to provide construction management services for the project, and

WHEREAS, CIS staff recommends the consulting firm of Harris and Associates be awarded a contract to perform the construction management services as current

workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with Harris and Associates in an amount not-to-exceed $200,725.00 to perform construction management services of the Lift Station project, and

WHEREAS, Harris and Associates will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Construction Management Services with Harris and Associates in an amount not-to-exceed $200,725.00 for construction management services of the La Loma Avenue Sanitary Sewer Lift Station project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-117

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH HARRIS AND ASSOCIATES FOR CONSTRUCTION MANAGEMENT SERVICES OF THE COLLECTION SYSTEM REHABILITATION 2006 PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $39,345.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on January 9, 2007, by Resolution No. 2007-060, City Council awarded a construction contract in the amount of $620,019.70 to D.A. Wood Construction, Inc., for construction of the Collection System Rehabilitation 2006 project (Project), and

WHEREAS, due to the current staffing levels, a construction management company is being tasked with the construction management of the Project, and

WHEREAS, the selection process for construction management services followed the City's selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed a Request for Qualifications for construction management services to all firms that had previously indicated an interest in providing construction management services to the City, and

WHEREAS, four specialized consulting firms of construction management services were asked to provide a proposal, and

WHEREAS, the City's Selection Committee reviewed the proposals submitted and held interviews with the top two firms, and

WHEREAS, the firm of Harris and Associates was considered to be the most qualified to provide construction management services for the Project, and

WHEREAS, Capital Improvement Services staff recommends the consulting firm of Harris and Associates be awarded a contract to perform the construction management

services as current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with Harris and Associates in an amount not-to-exceed $39,345.00 to perform construction management services of the Collection System Rehabilitation 2006 project, and

WHEREAS, Harris and Associates will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Construction Management Services with Harris and Associates in an amount not-to-exceed $39,345.00 for construction management services of the Collection System Rehabilitation 2006 project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-118

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH TRS CONSULTANTS, INC., IN THE NOT-TO-EXCEED AMOUNT OF $282,145.42 FOR CONSTRUCTION MANAGEMENT SERVICES OF THE FLOYD/ROSELLE AVENUES ROUNDABOUT PROJECT, AND AUTHORIZING THE COMMUNITY FACILITIES DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on February 6, 2007, by Resolution No. 2007-091, City Council awarded a construction contract in the amount of $2,819,799.75 to Teichert Construction, for construction of the Roselle Avenue at Floyd Avenue Improvements (Floyd/Roselle Avenues Roundabout), and

WHEREAS, due to the current staffing levels, a construction management company is being tasked with the construction management of the Floyd/Roselle Avenues Roundabout, and

WHEREAS, the selection process for construction management services followed the City's selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed a Request for Qualifications for construction management services to all firms that had previously indicated an interest in providing construction management services to the City, and

WHEREAS, three specialized consulting firms of construction management services were asked to provide a proposal, and

WHEREAS, the City's Selection Committee reviewed the proposals submitted and held interviews with the three firms, and

WHEREAS, the firm of TRS Consulting, Inc., (TRS) was considered to be the most qualified to provide construction management services of the Floyd/Roselle Avenues Roundabout, and

WHEREAS, City staff recommends the consulting firm of TRS be awarded a contract to perform the construction management services as current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with TRS in an amount not-to-exceed $282,145.42 to perform construction management services of the Floyd/Roselle Avenues Roundabout project, and

WHEREAS, TRS will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with TRS Consulting, Inc., in an amount not-to-exceed $282,145.42 for construction management services of the Floyd/Roselle Avenues Roundabout.

BE IT FURTHER RESOLVED that the Community Facilities District Administrator, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-119

A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING BUDGET TO APPROPRIATE $592,150 FROM 0100-800-8000-8003 GENERAL FUND RESERVE TO VARIOUS ACCOUNTS IN THE FIRE DEPARTMENT'S OPERATING BUDGET FOR IMPLEMENTATION OF THE CITY'S NEGOTIATED MEMORANDUM OF UNDERSTANDING WITH THE MODESTO CITY FIRE FIGHTERS ASSOCIATION (MCFFA).

WHEREAS, on December 12, 2006, the City of Modesto (CITY) and the Modesto City Fire Fighters Association (MCFFA) reached an agreement for a new MOU, which went into effect December 26, 2006, and

WHEREAS, representatives of the CITY and MCFFA met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the City Council agreed to increase the CITY's contribution to Health, Dental and Vision benefits for employees represented by MCFFA, and

WHEREAS, the City Council agreed to increase the salaries of employees represented by MCFFA, and

WHEREAS, the City Council agreed to implement other economic items which impact the FY 06-07 General Fund Operating Budget including educational incentive pay, holiday cashout for non-shift employees, Fire Investigator On-Call pay, increases in uniform allowance and compensation for training, and

WHEREAS, the FY 06-07 net increased costs associated with these salary and benefit changes are estimated at $592,150 effective December 26, 2006, and

WHEREAS, these increased expenditures have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the fiscal year 2006-07 Operating Budget is hereby amended to appropriate $592,150 from 0100-800-8000-8003 General Fund Reserve to various accounts in the Fire Department's operating budget for implementation of the negotiated MOU between the City of Modesto and the Modesto City Fire Fighters Association.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-120

A RESOLUTION APPROVING THE FUNDING OF GENERAL FUND SUPPLEMENTAL BUDGET REQUESTS FOR FISCAL YEAR 2006-07

WHEREAS, during the FY2006-07 budget process, the City Council decided to defer the consideration of supplemental budget requests until the year-end information was finalized, and

WHEREAS, on January 22, 2007, the Finance Committee reviewed the City Manager's recommendations for General Fund supplemental funding of ongoing and one-time requests, as well as requests that were not recommended to move forward, and

WHEREAS, the Finance Committee recommended that the City Manager's recommendations for supplemental funding be referred to the City Council for approval, and

WHEREAS, on February 13, 2007, the City Council reviewed the requests for supplemental funding, and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves the funding of General Fund supplemental budget requests as set forth in **Attachment A**, and directs that the necessary budgetary adjustments be made for FY2006-07 as designated in said Attachment "A" as ongoing and one-time requests.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, 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
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
Susana Alcala-Wood, City Attorney

General Fund Supplemental Requests
As Recommended by the Council Finance Committee (1/22/07)

Line From Proforma	Dept.	Budget Request	FY 06-07 General Fund	FY 06-07 Other	FY 07-08 General Fund	FY 07-08 Other
36	PD	Sworn Staffing (6)/CAD: Designates funding for the six sworn positions currently funded through grants and, as a interim step, utilizes these funds for the Computer Aided Dispatch system.	$819,680	$0	$586,087	$0
46	Pers.	Workers Comp Claims Examiner (60%/Benefited/Confidential): Responsible for adjustment medical-only workers comp claims and bill review process. Funding reflects difference between current part-time funding allocation and cost of permanent position at 60%.	$5,000	$4,777	$20,800	$8,532
47	Pers.	Employee Relations Specialist: Provides assistance and advise to departments in disciplinary investigation/resolution, and grievances. Also participates in the meet & confer process, provides mandated training in a variety of areas including sexual harassment.	$27,470	$0	$109,075	$0
48	City Atty	Legal Secretary: Provides administrative support for the criminal prosecution function of the City Attorney's Office and litigation support for the civil drug nuisance actions and receivership actions brought by the Office. Request restores a position previously eliminated as a budget reduction measure.	$16,075	$0	$66,872	$0
49	City Atty	Deputy City Attorney II: Responsible for prosecution of MMC violations to support police, fire, and NPU enforcement efforts. Position will re-establish the Office's ability to provide support for time-consuming civil drug abatement actions and civil receivership actions in support of the Beat Health Program.	$26,290	$0	$109,364	$0
50	IT	Network Engineer III/Security Manager: Responsible for developing and managing security policies/procedures and providing a high level of expertise in managing/protecting the City's network, system data, and computer systems from destructive or malicious hackers and electronic pirating.	$20,413	$10,992	$69,182	$37,252
51	Finance	Administrative Analyst II: Provides analytical support in the monitoring, billing, and auditing of Police grants to assure grant compliance. Position would physically reside in the PD but be allocated in the Accounting Division of the Finance Department.	$21,749	$0	$84,234	$0
52	Finance	Bids-Online Maintenance Support: Funding supports the management/maintenance of this online purchasing management system which allows vendors to register online, receive automated service and commodity solicitations via e-mail and will eventually allow for electronic submission of bids.	$8,000	$0	$8,000	$0

General Fund Supplemental Requests
As Recommended by the Council Finance Committee (1/22/07)

Line From Proforma	Dept.	Budget Request	FY 06-07 General Fund	FY 06-07 Other	FY 07-08 General Fund	FY 07-08 Other
53	Finance	Account Clerk II: Processes parking citations issued by the PD to meet State-mandated time frames and manage increased activity in the adjudication process. Position is fully supported by revenue generation from parking citation revenue.	$12,255	$0	$50,981	$0
54	PD	Sworn Staffing (4): Funding moves the City towards the Council desired goal of 1.85 officers per 1,000 residents.	$135,417	$0	$407,214	$0
55	PRN	Administrative Office Assistant I (from 75% benefited to full-time benefited): Responsible for department-wide tasks, including distribution of City Council and Committee reports; preparing check requests; and other basic clerical support functions. This request is fully supported by revenue generation from service credits to other funds.	$3,072	$0	$12,287	$0
56	PRN	Maddux Youth Center: Provides for facility and programming needs at the updated and expanded Maddux Youth Center.	$97,780	$0	$82,723	$0
57	PRN	Weed, Litter, & Blight Removal: Provides funding support for the removal of weeds, litter, and other blight from the public right-of-ways.	$100,000	$0	$150,000	$0
58	PRN	John Thurman Capital Projects: Provides capital funding for projects at John Thurman Field in keeping the Modesto Nuts agreement. This year's funding provides for new fencing and upgraded lighting.	$50,000	$0	$50,000	$0
59	PRN	Golf Capital Projects: In keeping with prior Council direction, this funding designates $1 of each 18-hole round for capital infrastructure needs at the City's three golf courses.	$99,372	$0	$100,000	$0
60	PW	Fleet Supervisor: Funding of this position assures full-time management of both the downtown shop where police vehicles are maintained and of the transit bus facility. This additional supervisor will provide future planning as well as management of current operations.	$6,078	$21,582	$25,282	$64,748
61	PRN	Exhibits Coordinator (75%/Benefited): Moves this position from part-time to a permanent position with benefits; position is responsible for exhibits at both the Mansion and the Museum. There may be an opportunity for this cost to be offset by contributions from the McHenry Musuem and Historical Society and the McHenry Mansion Foundation.	$7,441	$0	$30,954	$0

General Fund Supplemental Requests
As Recommended by the Council Finance Committee (1/22/07)

Line From Proforma	Dept.	Budget Request	FY 06-07 General Fund	FY 06-07 Other	FY 07-08 General Fund	FY 07-08 Other
62	CEDD	**Reallocate Administrative Analyst II to Business Analyst:** This action would reallocate a vacant Administative Analyst position to Business Analyst in the Business Development Division. Position responsible for working with existing businesses; attracting new business and industry; creating revolving loan fund and pursuing grants.	$2,634	$2,634	$5,687	$5,687
75	CEDD	**Planning Mgr. Consultant Contract:** Reimburses the department for the cost difference between salary/benefits for the Planning Manager position and the cost of consultant contract.	$50,000	$0	$0	$0
76	IT	**Novell Licensing:** Covers those costs associated with the extended period of time allowed for migration of e-mail documents, etc from Groupwise to Outlook.	$34,087	$40,913	$0	$0
77	PRN	**McHenry Mansion Foundation Work:** Provides funding for remediation work on the brick foundation which is peeling and crumbling due to moisture penetration. The study portion of this effort has already been done on a volunteer basis.	$50,000	$0	$0	$0
78	PRN	**Cultural Arts Promotions:** Increases the amount of funding available to the Culture Commission for allocation to cultural arts organizations within the community (raises the FY 06-07 total from $49,008 to $59,008)	$10,000	$0	$10,000	$0
79	PW	**Modesto Arch:** Provides funding for necessary maintenance of the Modesto Arch including sandblasting of the abutments and crack-filling of the masonry structure, wire brushing the metal structure, and painting of entire structure with 1 coat of primer and 2 coats of color.	$45,000	$0	$0	$0
EXPENDITURES			$1,647,813	$80,898	$1,978,742	$116,219

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-121

A RESOLUTION AMENDING THE GENERAL FUND FISCAL YEAR 06-07 OPERATING BUDGET TO REFLECT REVISED REVENUE PROJECTIONS.

WHEREAS, each year the City Council adopts revenue forecasts for the upcoming fiscal year based on staff analysis, and

WHEREAS, those forecasts are reviewed from time to time to assure their validity, and

WHEREAS, there have been changes in the revenue forecasts which require amending the previously adopted revenue projections for FY 06-07 General Fund revenue, and

WHEREAS, these new revenue projections are identified in a staff report to City Council from the City Manager dated January 29, 2007, a copy of which is on file in the Office of the City Clerk, and

WHEREAS, the Finance Committee reviewed said revenue information at their meeting of January 22, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the General Fund operating budget for FY 06-07 to reflect the aforementioned revised revenue projections.

BE IT FURTHER RESOLVED that this action will increase overall major revenue projections in the General Fund for FY 06-07 by an estimated $3.5 million dollars over the adopted revenue budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: _____

Susana Alcala-Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-122

A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT TO EXECUTE AMENDMENT NO. 5 TO THEIR EXISTING AGREEMENT WITH THE BLACK & VEATCH CORPORATION IN AN AMOUNT NOT TO EXCEED $353,940, TO COMPLETE THE ENGINEERING DESIGN SERVICES RELATED TO THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE TWO EXPANSION

WHEREAS, on October 11, 2005, by Resolution No. 2005-516 the Council of the City of Modesto approved the Amended and Restated Treatment and Delivery Agreement (ARTDA) with the Modesto Irrigation District (MID) that contemplates the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion project, and

WHEREAS, the City and MID have been working together planning for the expansion of the MRWTP from its existing capacity of 36 mgd to 72 mgd, and

WHEREAS, it has been well documented that the MRWTP Phase Two Expansion project is needed to provide existing users with a reliable water source and to keep pace with the City's projected growth, and

WHEREAS, the ARTDA requires MID to obtain City authorization for such amendments, and

WHEREAS, MID and City staff agree that additional services are needed and justified to complete the project's engineering design services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute Amendment No. 5 to the Agreement with Black & Veatch in an amount not to exceed an additional $353,940, for

a total agreement amount of $4,760,769, to complete the engineering design services related to the Modesto Regional Water Treatment Plant Phase Two Expansion project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-123

A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT TO EXECUTE AN AGREEMENT WITH THE BLACK & VEATCH CORPORATION IN AN AMOUNT NOT TO EXCEED $5,659,785, TO PROVIDE CONSTRUCTION PHASE SERVICES RELATED TO THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE TWO EXPANSION

WHEREAS, on October 11, 2005, by Resolution No. 2005-516 the Council of the City of Modesto approved the Amended and Restated Treatment and Delivery Agreement (ARTDA) with the Modesto Irrigation District (MID) that contemplates the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion project, and

WHEREAS, the City and MID have been working together planning for the expansion of the MRWTP from its existing capacity of 36 mgd to 72 mgd, and

WHEREAS, it has been well documented that the MRWTP Phase Two Expansion project is needed to provide existing users with a reliable water source and to keep pace with the City's projected growth, and

WHEREAS, the ARTDA requires MID to obtain City authorization for such agreements, and

WHEREAS, MID and City staff agree that construction phase services are needed and justified to complete the project's construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute an Agreement with Black & Veatch in an amount not to exceed $5,659,785, to provide construction phase services related to the Modesto Regional Water Treatment Plant Phase Two Expansion project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-124

A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT TO EXECUTE AMENDMENT NO. 1 TO THEIR EXISTING MEMORANDUM OF UNDERSTANDING WITH THE US FILTER-WASTEWATER GROUP (NOW SIEMENS WATER TECHNOLOGIES CORPORATION) IN AN AMOUNT NOT TO EXCEED $1,119,570, TO COMPLETE THE DESIGN AND PROCUREMENT PROCESS OF THE LOW-PRESSURE MEMBRANE WATER FILTRATION SYSTEM FOR THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE TWO EXPANSION

WHEREAS, on October 11, 2005, by Resolution No. 2005-516 the Council of the City of Modesto approved the Amended and Restated Treatment and Delivery Agreement (ARTDA) with the Modesto Irrigation District (MID) that contemplates the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion project, and

WHEREAS, the City and MID have been working together planning for the expansion of the MRWTP from its existing capacity of 36 mgd to 72 mgd, and

WHEREAS, it has been well documented that the MRWTP Phase Two Expansion project is needed to provide existing users with a reliable water source and to keep pace with the City's projected growth, and

WHEREAS, the ARTDA requires MID to obtain City authorization for such amendments, and

WHEREAS, MID and City staff agree that additional services are needed and justified to complete the project's design and procurement process of the low-pressure membrane water filtration system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute Amendment No. 1 to the

Memorandum of Understanding with the US Filter-Wastewater Group (now Siemens Water Technology Corporation) in an amount not to exceed an additional $1,119,570, for a total Memorandum of Understanding amount of $5,433,436, to complete the design and procurement process of the low-pressure membrane water filtration system related to the Modesto Regional Water Treatment Plant Phase Two Expansion project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-125

A RESOLUTION APPROVING THE PLANS, SPECIFICATIONS, AND COST ESTIMATE FOR THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE TWO EXPANSION PROJECT AND AUTHORIZING THE MODESTO IRRIGATION DISTRICT TO SOLICIT BIDS FOR ITS CONSTRUCTION

WHEREAS, on October 11, 2005, by Resolution No. 2005-516 the Council of the City of Modesto approved the Amended and Restated Treatment and Delivery Agreement (ARTDA) with the Modesto Irrigation District (MID) that contemplates the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion project, and

WHEREAS, the City and MID have been working together planning for the expansion of the MRWTP from its existing capacity of 36 mgd to 72 mgd, and

WHEREAS, it has been well documented that the MRWTP Phase Two Expansion project is needed to provide existing users with a reliable water source and to keep pace with the City's projected growth, and

WHEREAS, the ARTDA requires MID to obtain City authorization for such milestones, and

WHEREAS, MID and City staff agree that such action is ready,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans, specifications, and cost estimate for the Modesto Regional Water Treatment Plant Phase Two Expansion project and authorizes the Modesto Irrigation District to solicit bids for its construction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-126

A RESOLUTION DENYING THE ABANDONMENT OF A PORTION OF THE MERLE AVENUE RIGHT-OF-WAY AT THE CLAUS ROAD INTERSECTION (PACIFIC PRIDE COMMUNITIES)

WHEREAS, Pacific Pride Communities has filed an application to vacate and abandon a portion of the Merle Avenue right-of-way, located at the Claus Road Intersection ("Proposed Abandonment"), and

WHEREAS, said right-of-way to be vacated and abandoned is more particularly described in **Exhibit "A"** attached hereto and incorporated by this reference, and

WHEREAS, Government Code Section 65402(a) requires that prior to abandoning a public right-of-way, the Planning Commission shall make a determination as to whether the abandonment is consistent with the General Plan, and

WHEREAS, the proposed right-of-way abandonment has been referred to affected City departments and local utility companies and no objection to the abandonment has been received, and

WHEREAS, a hearing was held by the Planning Commission on December 18, 2006, in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California, at which hearing both oral and documentary was received and considered regarding the proposed vacation and abandonment, and

WHEREAS, several residents testified in opposition to the abandonment at the public hearing, due to ingress and egress concerns; and

WHEREAS, by Planning Commission Resolution No. 2006-78, the Planning Commission rendered a report finding that the Proposed Abandonment is in conformance

with the Modesto Urban Area General Plan, but recommended that the Council reconsider the General Plan policies pertaining to the abandonment of Merle Avenue, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Tuesday, February 13, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which time all persons interested in or objecting to the Proposed Abandonment were afforded the opportunity to appear, and

WHEREAS, a notice of the hearing on the proposed right-of-way abandonment has been posted and published in the Modesto Bee for two successive weeks starting January 30, 2007, as required by the California Streets and Highways Code Sections 8322 and 8323, and

WHEREAS, after said public hearing, the Council found and determined that said abandonment should be denied, and

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby denies the proposed abandonment of a portion of Merle Avenue for the following reasons:

1. Until such time as the Claus Road Expressway is constructed, the abandonment of Merle Avenue is premature, because it will reduce the options for ingress and egress to and from Village One unnecessarily in that the Merle Avenue and Claus Road intersection operates in accordance with City Standards under the current configuration.
2. Until such time as Precise Plan 30 is developed, the abandonment of Merle Avenue is premature, because Precise Plan 30 will provide an alternative means of ingress and egress for the adjacent neighborhood and emergency services during school drop-off and pick-up times for the schools along Fine and Merle Avenues.
3. Denying the abandonment of Merle Avenue is consistent with the Village One Specific Plan, because the abandonment is not being denied indefinitely, but delayed pending the construction of the Claus Road Expressway and development of Precise Plan 30, as referenced in the above findings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Olsen

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

November 6, 2006

EXHIBIT

MERLE AVENUE
CITY OF MODESTO 12.00 WIDE ACCESS EASEMENT

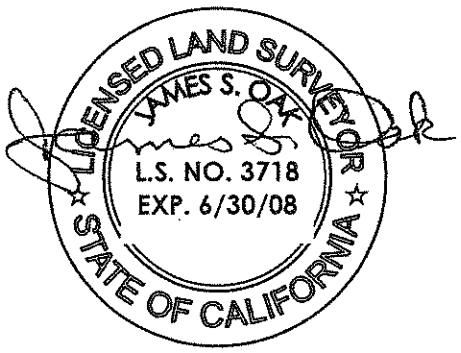
PARCEL 4

LEGAL DESCRIPTION

All that certain real property being a portion of a public road known as Merle Avenue and a portion of Parcel No. 1, as parcel is shown on Parcel Map filed for record in Book 1 of Parcel Maps, at Page 128, Stanislaus County Records, being in the Southeast quarter of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Parcel A: **BEGINNING** at the Southeast corner of said Parcel No. 1; thence South 89° 52' 34" West 35.60 feet along the North right of way line of Merle Avenue to a non-tangent curve, concave to the Southwest, from which a radial line bears South 21° 14' 37" West; thence Southeasterly 19.17 feet along said non-tangent curve having a radius of 53.50 feet and a central angle of 20° 31' 47", to a non-tangent line from which a radial line bears South 41° 46' 23" West, said non-tangent line being parallel with and 10.00 feet South of said North right of way line of said Merle Avenue; thence North 89° 52' 34" East 19.40 feet along said parallel line; thence North 00° 17' 47" West 10.00 feet, to the point of beginning.

Parcel B: The South 2.00 feet, measured at right angles, of the East 35.60 feet, measured along the South line of said Parcel No. 1, of said Parcel 1.



November 6, 2006

EXHIBIT

MERLE AVENUE
CITY OF MODESTO STREET ABANDONMENT

PARCEL 3, PORTION OF NORTH HALF, WEST PARCEL

LEGAL DESCRIPTION

All that certain real property being a portion of a public road known as Merle Avenue which is adjacent on the South to a portion of Parcel No. 1 and Parcel No. 2, as parcels are shown on Parcel Map filed for record in Book 1 of Parcel Maps, at Page 128, Stanislaus County Records, being in the Southeast quarter of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

BEGINNING at the Southeast corner of said Parcel No. 1; thence South 89° 52' 34" West 35.60 feet along the North right of way line of Merle Avenue to a non-tangent curve, concave to the Southwest, from which a radial line bears South 21° 14' 37" West; thence Southeasterly 19.17 feet along said non-tangent curve having a radius of 53.50 feet and a central angle of 20° 31' 47", to a non-tangent line from which a radial line bears South 41° 46' 23" West, said non-tangent line being parallel with and 10.00 feet South of said North right of way line of said Merle Avenue; thence North 89° 52' 34" East 19.40 feet along said parallel line; thence North 00° 17' 47" West 10.00 feet, to the point of beginning.

November 6, 2006

EXHIBIT

MERLE AVENUE
CITY OF MODESTO STREET ABANDONMENT

PARCEL 2, PORTION OF NORTH HALF, EAST PARCEL

LEGAL DESCRIPTION

All that certain real property being a portion of a public road known as Merle Avenue which is adjacent on the South to a portion of Parcel No. 1 and Parcel No. 2, as parcels are shown on Parcel Map filed for record in Book 1 of Parcel Maps, at Page 128, Stanislaus County Records, being in the Southeast quarter of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

COMMENCING at the intersection of the center line of said Merle Avenue with the center line of Claus Road, as shown on said parcel map; thence South 89° 52' 34" West 109.89 feet along said center line of Merle Avenue; thence North 00° 07' 26" West 20.00 feet to the **POINT OF BEGINNING;** thence continuing North 00° 07' 26" West 10.00 feet to the North right of way line of Merle Avenue; thence South 89° 52' 34" West 66.95 feet, more or less, along said North right of way line of Merle Avenue to the Southwest corner of said Parcel No. 2, in Book 1 of Parcel Maps, at Page 128, Stanislaus County Records; thence South 00° 17' 47" East 10.00 feet; thence North 89° 52' 34" East 66.92 feet along a line parallel with, and 10.00 feet South of said North right of way line of Merle Avenue, to the point of beginning.

November 6, 2006

EXHIBIT

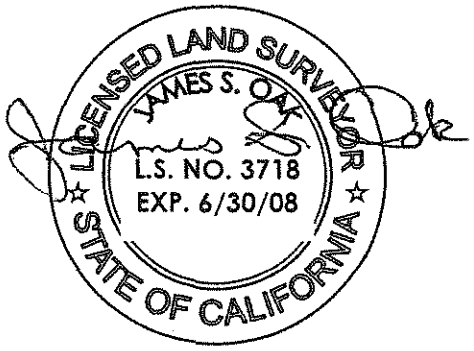
MERLE AVENUE
CITY OF MODESTO STREET ABANDONMENT

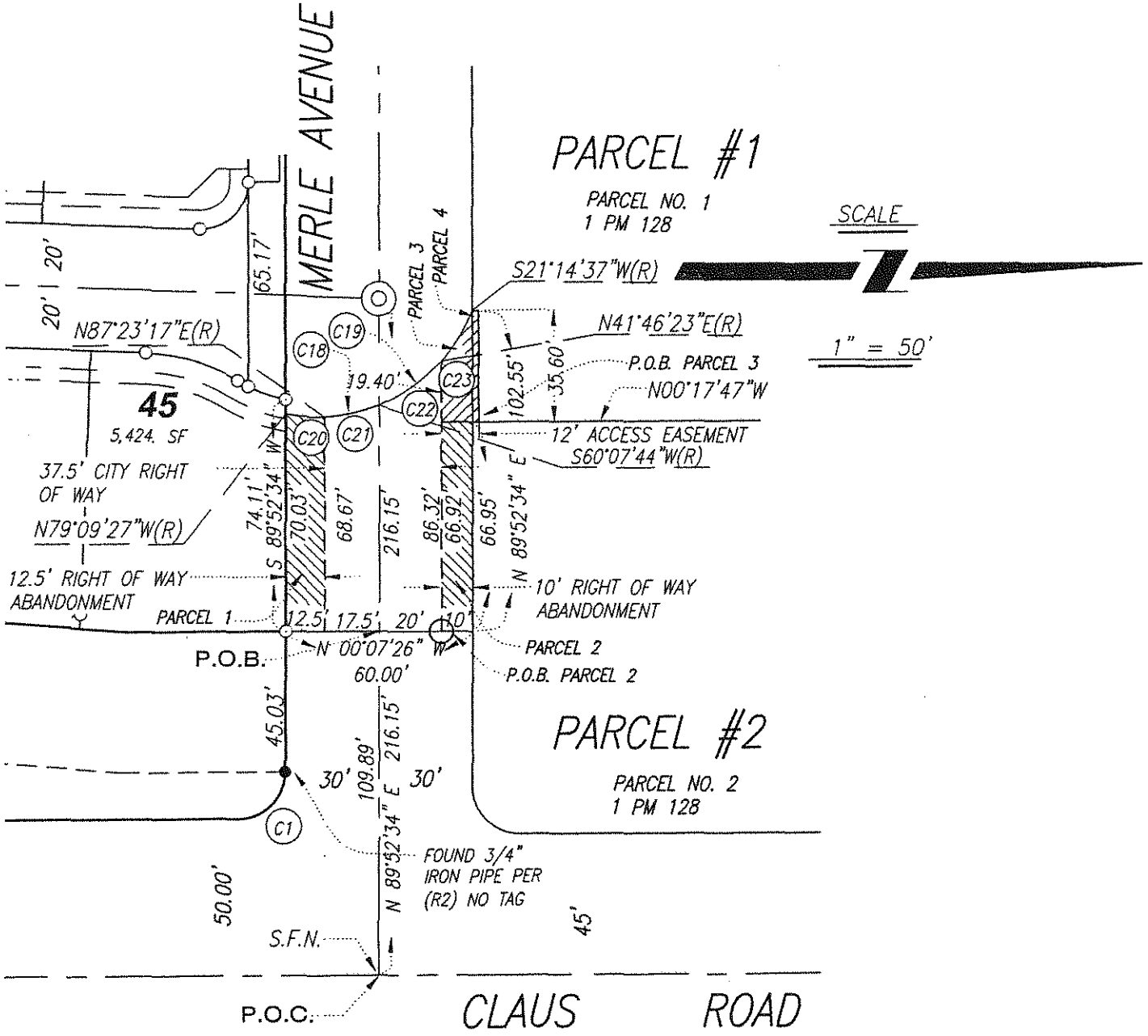
PARCEL 1, PORTION OF SOUTH HALF

LEGAL DESCRIPTION

All that certain real property being a portion of a public road known as Merle Avenue which is adjacent on the South to a portion of Parcel No. 1 and Parcel No. 2, as parcels are shown on Parcel Map filed for record in Book 1 of Parcel Maps, at Page 128, Stanislaus County Records, being in the Southeast quarter of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

COMMENCING at the intersection of the center line of said Merle Avenue with the center line of Claus Road, as shown on said parcel map; thence South 89° 52' 34" West 109.89 feet along said center line of Merle Avenue; thence South 00° 07' 26" East 17.50 feet to the **POINT OF BEGINNING;** thence continuing South 00° 07' 26" East 12.50 feet to the South right of way line of Merle Avenue; thence South 89° 52' 34" West 70.03 feet along said South right of way line to a non-tangent curve, concave to the West, from which a radial line bears North 79° 09' 27" West; thence Northerly 12.56 feet along said non-tangent curve, having a radius of 53.50 feet and a central angle of 13° 27' 16", to a point of cusp with a non-tangent line from which a radial line bears North 87° 23' 17" East; thence North 89° 52' 34" East 68.67 feet along said non-tangent line, being parallel with, and 12.5 feet North of said South right of way line of Merle Avenue, to the point of beginning.





CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	23.52'	15.00'	89°49'39"	N45°12'36"W	21.18'
C18	30.55'	53.50'	32°42'49"	N05°30'52"W	30.13'
C19	43.78'	53.50'	46°53'07"	N45°18'50"W	42.57'
C20	12.56'	53.50'	13°27'16"	N04°06'55"E	12.53'
C21	17.98'	53.50'	19°15'33"	N12°14'30"W	17.90'
C22	24.61	53.50'	26°21'20"	N35°02'57"W	24.39'
C23	19.17	53.50'	20°31'47"	N58°29'30"W	19.07'

Owens Design Consultants
2200 McHenry Avenue, Suite C
Modesto, CA. 95350
(209) 522-8031 - fax (209) 522-4738 - www.odcengr.com

Drawn By:	AR
Checked By:	TO
Scale:	1"=50'
Job No.	25041-B
Date:	11/2006
CAD File Name:	25041_EX..

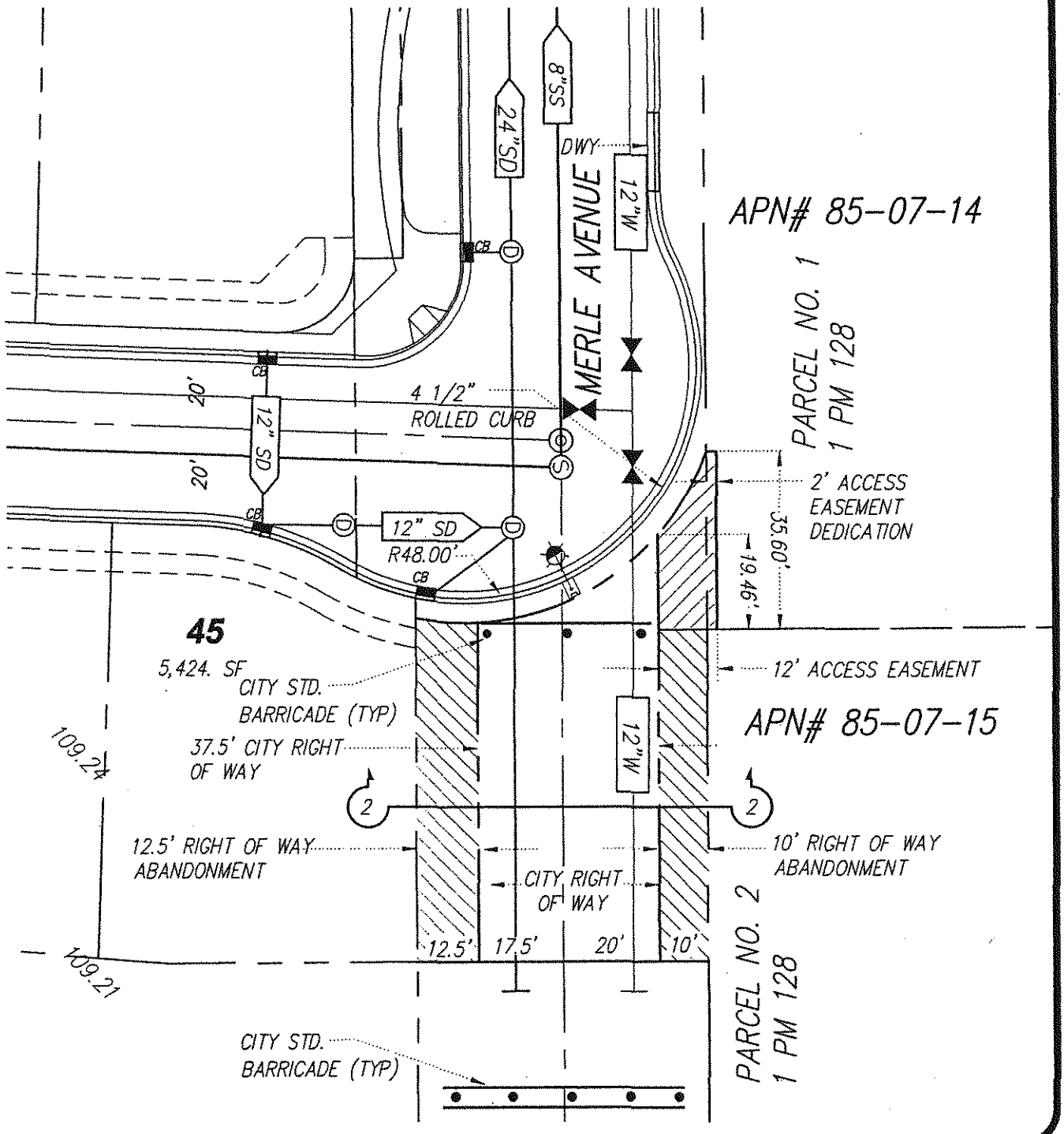
Project: THOMAS TERRACE
A PRIVATE COMMUNITY

Title: EXHIBIT "A"
PUBLIC UTILITY EASEMENT
CITY OF MODESTO STATE OF CALIFORNIA

Sheet No. 1 Of 1

SCALE

1" = 30'



Owens Design Consultants
2200 McHenry Avenue, Suite C
Modesto, CA. 95350
(209) 522-8031 - fax: (209) 522-4736 - www.odcengr.com

Drawn By:	AR
Checked By:	TO
Scale:	1"=30'
Job No.	25041-B
Date:	11/2006
CAD File Name:	25041-B

Project: THOMAS TERRACE
A PRIVATE COMMUNITY

Title: EXHIBIT
MERLE CLOSURE

CITY OF MODESTO STATE OF CALIFORNIA

Sheet No. 1 Of 2

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-127

A RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROMENADE PROJECT (STATE CLEARINGHOUSE NUMBER 2004102044)

WHEREAS, Setrok LP filed applications for a General Plan Amendment and PD zone district, including submittal of a Development Plan, in October of 2003 with the Planning Division to allow for construction of a Lifestyle Retail Center, including specialty retailers, a multi-screen movie theater, restaurants, offices, and a four-story hotel on a 45-acre site located along the west side of Dale Road, between Standiford and Pelandale Avenues, just north of the existing Vintage Faire Mall, ("the Project"), and

WHEREAS, the application was deemed complete in January of 2004, and

WHEREAS, the City of Modesto ("the City"), on October 8, 2004, published an Initial Study and a Notice of Preparation for the Project, which identified potentially significant environmental impacts attributable to the Project, on which basis the City determined that an Environmental Impact Report ("EIR") was required for the Project, and

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

WHEREAS, on November 8, 2004, the City held a public scoping meeting to receive public comments on the scope and content of the EIR, and

WHEREAS, the City published and distributed a Draft EIR for the Promenade Project (State Clearinghouse Number 2004102044) ("DEIR") for public comment on June 9, 2006, in accordance with Section 21091 of the California Environmental Quality Act ("CEQA"), and

WHEREAS, the DEIR was available for public comment for a period of 45 days as required by Section 21091 of CEQA, the close of the public comment period being July 24, 2006, and

WHEREAS, the public comment period was extended for an additional 10 days to close on August 3, 2006, and

WHEREAS, during the 55-day public comment period the City received eight letters commenting on the DEIR, and

WHEREAS, subsequent to the release of the DEIR and close of the public comment period the Project entitlement applications were suspended in September of 2006 by the Project applicant, and

WHEREAS, the applicant requested to move forward with certification of the EIR without any approval of the Promenade Project or related entitlements, and

WHEREAS, the City continued with the certification of the EIR at the applicant's request and prepared written responses to all written comments received on the DEIR, said responses being contained in a Final EIR for the Promenade Project (State Clearinghouse Number 2004102044) ("FEIR") prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, the FEIR was published and distributed on January 31, 2007, and consists of the Draft EIR, a list of commentors, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines, and

WHEREAS, no action is being taken on the Promenade Project for development approval due to the suspension of planning entitlement applications by the Project applicant, and

WHEREAS, no findings of fact are required to be adopted by the decision-making agency unless action is being taken on approval of a project, in accordance with section 15091(a) of the CEQA Guidelines, and

WHEREAS, no mitigation monitoring and reporting program is required to be adopted by the decision-making agency unless action is being taken on approval of a project, in accordance with section 15091(d) of the CEQA Guidelines, and

WHEREAS, no statement of overriding considerations is required to be adopted by the decision-making agency unless action is being taken on approval of a project, in accordance with section 15093 of the CEQA Guidelines, and

WHEREAS, a no public hearing was held by the Planning Commission as the Project applicant has requested that the planning entitlement applications be suspended from consideration at this time, and

WHEREAS, certification of the Promenade FEIR (SCH No. 2004102044) was set for a public hearing of the City Council to be held on February 13, 2007, 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 evidence both oral and documentary was received and considered, and

WHEREAS, the City Council has received and considered the FEIR for the Promenade Project (SCH No. 2004102044) that analyzed the potential environmental effects of the proposed Project.

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

1. That the FEIR has been completed in compliance with CEQA; that the City Council has reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FEIR, prior to certifying the FEIR; and that the FEIR represents the independent judgment of the City of Modesto (Section 15090(a)); and

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

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

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

BE IT FURTHER RESOLVED by the Council that it hereby certifies the Final Environmental Impact Report for the Promenade Project (SCH No. 2004104022), a copy of which is available in the City Clerk's Office.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of February, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Keating, O'Bryant

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-128

A RESOLUTION ALLOWING A REFUND TO CITIFINANCIAL AUTO CORPORATION OF OVER PAID BUSINESS LICENSE TAXES AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID REFUND

WHEREAS, CitiFinancial Auto Corporation has submitted a request for a business license tax refund in the amount of $27,433.42, and

WHEREAS, the City Finance Department has verified said refund, and

WHEREAS, the Modesto City Council is required to approve all refunds of more than $5000.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto hereby authorizes a refund in the amount of $27,433.42 be paid to CitiFinancial Auto Corporation.

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

The forgoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ACALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-129

RESOLUTION DECLARING ONE (1) 1977 VAN PELT FIRE ENGINE AND (1) 1982 VAN PELT FIRE ENGINE SURPLUS, AND SELL BOTH TO THE YOSEMITE COMMUNITY COLLEGE DISTRICT (YCCD) FOR $1 EACH, FOR USE AT THE REGIONAL FIRE TRAINING CENTER (RFTC).

WHEREAS, in 1995 the City of Modesto partnered with the Yosemite Community College District (YCCD) and Stanislaus County in the construction and operation of the Regional Fire Training Center, and

WHEREAS, the RFTC maintains fire engines, utilized by the Regional Fire Academy, Modesto Fire Explorers, and others who rent the facility, and

WHEREAS, rent from the facility, in part, offsets partnership costs of the center, and

WHEREAS, the 1977 and 1982 Van Pelt fire engines function, but are very old and are being replaced in their reserve status by newer fire engines which have been removed from front line service, and

WHEREAS, the 1977 and 1982 Van Pelt fire engines have reached the end of their fire fighting service life, and

WHEREAS, the Council of the City of Modesto desires to sell the 1977 and 1982 Van Pelt fire engines to YCCD for one dollar ($1.00) each,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares that the 1977 and 1982 Van Pelt fire engines have become surplus property.

BE IT FURTHER RESOLVED that the sale of the 1977 and 1982 Van Pelt fire engines to the YCCD for one dollar ($1.00) each is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-130

ADOPT A RESOLUTION AUTHORIZING THE MODESTO FIRE DEPARTMENT TO APPLY FOR A LIVESCAN ACCOUNT WITH THE DEPARTMENT OF JUSTICE, GIVING THEM ACCESS TO LOCAL, STATE AND FEDERAL SUMMARY CRIMINAL HISTORY INFORMATION FOR EMPLOYMENT, LICENSING OR CERTIFICATION PURPOSES.

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) authorize cities, counties and districts to access local, state and federal summary criminal history information for employment, licensing or certification purposes, and

WHEREAS, Penal Code Section 11105(b)(10) authorizes cities, counties and districts to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, and

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record, and

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) require the city council, board of supervisors, or governing body of a city, county or district to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Modesto Fire Department to apply for a LiveScan account with the Department of Justice, giving access to local, state and federal level summary criminal history information for employment (including volunteers and contract employees),

licensing, or certification purposes and may not disseminate the information to a private entity; and

BE IT FURTHER RESOLVED, that the Modesto Fire Department shall not consider a person who has been convicted of a felony or misdemeanor involving moral turpitude eligible for employment (including volunteers and contract employees), or licensing; except that such conviction may be discharged if it is determined that mitigating circumstances exist, or that the conviction is not related to the employment, volunteer or license in question.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-131

A RESOLUTION APPROVING A SECOND AMENDMENT TO A LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND GOLDENSTATE TOWERS, LLC FOR EXPANSION OF A CELLULAR TOWER SITE LOCATED ON A PORTION OF CREEKSIDE MUNICIPAL GOLF COURSE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO THE LEASE AGREEMENT.

WHEREAS, GoldenState Towers, LLC currently leases a cellular tower site located on a portion of Creekside Municipal Golf Course, and

WHEREAS, it has been determined that the space being used by GoldenState Towers, LLC is larger than identified in the lease, and

WHEREAS, GoldenState Towers, LLC has agreed to a rent increase from $1,000 per month to $1,250 per month to compensate the City for the additional ground space,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to a Lease Agreement between the City of Modesto and GoldenState Towers, LLC for expansion of a cellular tower site located on a portion of Creekside Municipal Golf Course.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Second Amendment to the Lease Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD
City Attorney

ATTEST:

By _____
JEAN MORRIS
City Clerk

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-132

A RESOLUTION AMENDING THE CURRENT "SUPPORTIVE SERVICES FOR HOUSING" COMMUNITY HOUSING AND SHELTER SERVICES (CHSS) COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICE AGREEMENT FOR FISCAL YEAR 2006-2007 TO USE UP TO $4,800 OF THE EXISTING GRANT TO PAY FOR WORKSPACE RENTAL AND SUPPLIES FOR THE STAFF PERSON, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT.

WHEREAS, on May 2, 2006, by Resolution No. 2006-274, the City Council approved the allocation of the CDBG public service grant funding for Fiscal year 2006-2007, and

WHEREAS, included in this resolution was the allocation of $21,809 in CDBG funds to Community Housing and Shelter Services (CHSS), to be utilized for staff salary and benefits for Supportive Services for Housing, and

WHEREAS, CHSS had originally requested funding of $34,166, but due to limited funding all applicants received partial funding and had to adjust their funding requests accordingly, and

WHEREAS, on November 21, 2006, CHSS requested to amend their agreement to reallocate $4,800 of their funding to pay for rent and supplies for the staff person in the Supportive Services for Housing position, and

WHEREAS, the agreement currently funds staff salary and benefits only and the reallocation would allow them to use up to $4,800 of the existing grant to pay for workspace rental and supplies for the staff person, and

WHEREAS, CHSS is requesting this change because adequate funding has been identified to pay the staff person's salary but CHSS is in need of funding for workspace rental and supplies, and

WHEREAS, the Citizens Housing and Community Development Committee met on January 26, 2006 and supported the recommendation to amend the agreement to use up to $4,800 of the existing grant to pay for workspace rental and supplies for the staff person,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the current "Supportive Services for Housing" Community Housing and Shelter Services (CHSS) Community Development Block Grant (CDBG) Public Service agreement for fiscal year 2006-2007 to use up to $4,800 of the existing grant to pay for workspace rental and supplies for the staff person.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-133

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BIDS TO RE-ROOF THREE CITY OWNED RESTROOMS AND REPAIR ROOFS ON FOUR CITY OWNED RESTROOMS AT AN ESTIMATED COST OF $65,000.

WHEREAS, staff of the Parks, Recreation and Neighborhoods Department is responsible for the maintenance of all City owned park sites, and

WHEREAS, staff has made a thorough review of the park sites, and an analysis of the roofing structures determined that the roofs on the restrooms at Marshall Park, Cesar Chavez Park, and Beardbrook Park have significant dry rot damage and are in need of complete re-roofing including replacement of trusses at an estimated cost of $41,000.00, and

WHEREAS, during the review of restroom roofs, it was determined that the roofs on the restrooms at East La Loma Park, Revard Park, Lakewood Park, and Sipherd Park show some signs of dry rot and are in need of repair due to leakage at an estimate estimated cost of $24,000, and

WHEREAS, a formal Request for Bids (RFB) must be issued to complete repairs that will cost an estimated $65,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Purchasing Manager to issue a formal Request for Bids to re-roof three City owned restrooms and to repair the roofs on four City owned restrooms.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-134

A RESOLUTION SUPPORTING A PILOT PROGRAM TO CURB VANDALISM AND GRAFFITI OCCURRENCES AT THE MODESTO HIGH SCHOOL CAMPUS.

WHEREAS, during the week of January 15, 2007, a member of the Modesto City Schools staff (MCS) contacted staff at the Parks, Recreation and Neighborhoods Department (PR&N) regarding an increase in graffiti and negative behavior taking place on the Modesto High School campus, and

WHEREAS, the area specifically being affected is the Modesto High School tennis courts which are co-owned by the Modesto City School and the City of Modesto and managed through a use-agreement, and

WHEREAS, the school district's main concerns are the occurrence of daily graffiti on the tennis courts, unlimited access to the tennis courts and lack of lighting in the area of the tennis courts, and

WHEREAS, after further discussion, PR&N and Modesto High School staff proposed that City graffiti crews will order paint which matches the tennis courts, and deliver the paint to the Modesto High School campus, and the school district personnel will paint out the graffiti as it occurs, and

WHEREAS, staff further proposed that the Modesto High School staff could lock the gates accessing the tennis courts from 9:00 p.m. to 6:30 a.m. and that the Modesto High School staff would be responsible for locking and unlocking the gates on a daily basis, and

WHEREAS, staff further proposed that the tennis court light timers be set so the lights will come on at 6:00 p.m. and turn off at 6:30 a.m., and

WHEREAS, after one month, both PR&N staff and School District staff will evaluate the pilot program, and

WHEREAS, the Safety and Communities Committee met on February 5, 2007, and supported the recommended pilot program to curb vandalism and graffiti occurrences at the Modesto High School campus,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the pilot program to curb vandalism and graffiti occurrences at the Modesto High School campus.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNIL
RESOLUTION NO. 2007-135

A RESOLUTION AFFIRMING THE CITY'S CO-SPONSORSHIP OF "EARTHDAY IN THE PARK FESTIVAL, 2007" AT GRACEADA PARK AND ALLOWING THE SALE OF MERCHANDISE IN THE PARK DURING THE EVENT.

WHEREAS, in 1970, Earth Day was established to make the public aware of programs successful in protecting the environment and conserving natural resources, and

WHEREAS, on March 24, 1992, by Resolution No. 92-129, the City Council acknowledged "Earth Day in the Park" as an annual event, and

WHEREAS, the Citizen's Advisory Committee on Recycling (CACOR) sponsors the event, and the 18th Annual "Earth Day in the Park" will be held on Saturday, April 21, 2007, at Graceada Park, and

WHEREAS, this event provides a forum for merchants to display and sell their "environmentally friendly" merchandise, and for the creation of a "festival atmosphere", while giving the public an opportunity to make purchases of positive benefit to the environment, and

WHEREAS, "Earth Day in the Park Festival, 2006" had nearly 100 vendor booths, and

WHEREAS, as in prior years' events, the Committee seeks Council approval for the sale of merchandise in the Park during the event,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City hereby affirms its co-sponsorship of "Earth Day in the Park Festival, 2007", to be held on April 21, 2007, at Graceada Park.

BE IT FURTHER RESOLVED by the Council that it hereby approves the sale of merchandise at Graceada Park during the "Earth Day in the Park Festival, 2007" event.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-136

A RESOLUTION APPROVING AN INCREASE IN THE GROVER LANDSCAPING CONTRACT BY AN ADDITIONAL $129,140 TO ADD ADDITIONAL, NEWLY DEVELOPED PARK AND OPEN SPACE SITES, SPECIFICALLY THE VIRGINIA CORRIDOR, FREEDOM NEIGHBORHOOD PARK, SANDERS NEIGHBORHOOD PARK, FLOYD & FINE STREETSCAPE, RANCHO ENCANTADO – HATCH WALL, AND FAIRWAY NEIGHBORHOOD PARK.

WHEREAS on March 7, 2006, by Resolution No. 2006-134, the City Council approved a Landscape Maintenance Agreement, effective March 21, 2006, between Grover Landscape Services, Inc. and the City, and

WHEREAS, since implementation of the agreement several park and open space sites have been developed or are in the development stage, and

WHEREAS, these newly developed park and open space sites will require on-going maintenance and an increase in the number of Grover Landscaping contracted sites, and

WHEREAS, these sites are the Virginia Corridor, Freedom Neighborhood Park, Sanders Neighborhood Park, Floyd & Fine Streetscape, Rancho Encantado – Hatch Wall, and Fairway Neighborhood Park, and

WHEREAS, the annual costs for these sites are $8,340 for the Virginia Corridor, $30,900 for Freedom Neighborhood Park, $29,700 for Sanders Neighborhood Park, $17,700 for Floyd & Fine Streetscape, $15,300 for Rancho Encantado – Hatch Wall, and $27,200 for Fairway Neighborhood Park for a total of $129,140, and

WHEREAS, the additional charge of $8,340 to the General Fund for the Virginia Corridor is budgeted in 0100-350-3522-0235, and

WEHREAS, the additional charge for Freedom Neighborhood Park, Sanders Neighborhood Park and the Floyd and Fine Streetscape is $78.300, and

WHEREAS, one-half of the additional charge ($39,150) for Freedom Neighborhood Park, Sanders Neighborhood Park and the Floyd and Fine Streetscape is budgeted in the Village One Community Facilities District account 2600-020-0207-0231, and

WHEREAS, one-half of the additional charges ($39,150) for Freedom Neighborhood Park, Sanders Neighborhood Park and the Floyd and Fine Streetscape are budgeted in the Village One #2 Community Facilities District account 2690-020-0207-0231, and

WHEREAS the additional charge of $42,500 for the Rancho Encantado – Hatch Wall and the Fairway Neighborhood Park is budgeted in the Fairview Village Community Facilities District account 2640-020-0207-0231, and

WHEREAS, there is a need to increase the Grover Landscaping contract by a total of $129,140 as described above,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves increasing the Grover Landscape Services, Inc. agreement by an additional $129,140 per year to add additional, newly developed park and open space sites.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-137

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO.

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

Parking Services Supervisor

The job specification for this classification is being created as part of a new program to automate the City's parking garages. The job specification for the classification of Parking Services Supervisor, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after February 27, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO FEBRUARY 2007
No. 6809

PARKING SERVICES SUPERVISOR

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To plan, organize, supervise and participate in the City's parking operations; and to manage a variety of both parking and facility maintenance duties.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from higher level supervisory and management staff.

Exercises direct supervision over assigned parking and maintenance staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities an duties may include, but are not limited to the following:

Essential Functions:

Recommend and assist in the implementation of goals and objectives; establish schedules and methods for providing parking services; implement policies and procedures.

Plan, prioritize, assign, supervise and review the work of staff involved in providing parking services.

Assist in developing and monitoring of the Parking Services Budget.

Participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies and initiate disciplinary actions as necessary.

Participate in the solicitation and evaluation of bids for price and quality; make contractual recommendations to management.

Develop and implement maintenance management plans for parking structures.

Supervise the response to emergency requests for service.

Inspect areas to ensure work standards are met and maintenance problems are corrected.

Essential Functions: (Continued)

Maintain time, material and equipment use records; test and evaluate maintenance supplies; requisition supplies and materials; and distribute supplies and equipment to staff.

Operate a personal computer to utilize required computer programs and software.

Oversee revenue collection, deposit of, and reporting activities within Parking Services.

May perform some maintenance tasks on parking equipment, as needed.

Compile information and prepare reports.

Marginal Functions:

Performs related duties as assigned.

QUALIFICATIONS

Knowledge of:

Methods and practices used in parking services and minor facility maintenance activities.

Tools, equipment and supplies used in providing comprehensive parking services and minor facility maintenance services.

Principles and practices used in the supervision and training of personnel.

Safe work practices; regulatory safety programs and procedures.

Word processing, spreadsheet applications, and Internet usage necessary for job performance.

State and municipal parking regulations.

Ability to:

Establish and maintain cooperative working relationships with those contacted in the course of work.

Plan, estimate, direct coordinate, schedule and review the work of others.

Ability to: (Continued)

Communicate clearly and concisely, both orally and in writing.

Supervise, train and evaluate the performance of assigned staff.

Operate a variety of modern office, communication, and parking equipment.

EXPERIENCE AND TRAINING GUIDELINES:

Any combination equivalent to experience and education that could likely provide the required knowledge and abilities would be qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Four years of increasingly responsible experience involving customer services management. Experience must include the supervision of staff. Parking facility experience is highly desirable.

Education:

Equivalent to completion of the twelfth grade preferably supplemented by specialized training related to the supervision of personnel.

License or Certificate:

Possession of, or the ability to obtain, a valid California driver's license.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment. travel from site to site; hot and cold temperatures; inclement weather.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition for sitting for prolonged periods of time; attending meetings; using a personal computer and related office equipment.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-138

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-321 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD PARKING SERVICES SUPERVISOR AT SALARY RANGE 423.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-321, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2006-321 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective May 23, 2006", attached to Resolution No. 2006-321, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective February 27, 2007, " which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" adds the classification of Parking Services Supervisor at Salary Range 423 ($3,822 - $4,657 per month) to the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after February 27, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective February 27, 2007

RANGE	TITLE
403	
407	Administrative Clerk II (Confidential) Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Administrative Technician (Confidential)
414	
415	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

RANGE	TITLE
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor **Parking Services Supervisor**
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Supervising Animal Control Officer Police Civilian Supervisor Stores Manager Systems Technician III
427	Assistant City Clerk/Auditor Legal Services Administrator Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Junior Civil Engineer Junior Traffic Engineer Senior Crime Analyst Software Analyst I
431	Administrative Analyst II Assistant Risk Manager Budget Analyst I Personnel Analyst Recycling Program Coordinator

RANGE	TITLE
432	Communications Specialist Compost Facility Supervisor Customer Services Supervisor Neighborhood Preservation Supervisor Operations and Maintenance Supervisor Recreation Supervisor II Senior Accountant Water Quality Control Maintenance Supervisor Water Quality Control Operations Supervisor
433	Organizational Development Specialist
434	Assistant Civil Engineer Assistant Traffic Engineer Budget Analyst II Environmental Laboratory Supervisor Operations Supervisor Regulatory Compliance Supervisor SCADA Supervisor Senior Community Development Program Specialist Senior Housing Rehabilitation Specialist Software Analyst II Supervising Accountant Systems Engineer I
435	Business Analyst Cultural Services Manager Emergency Medical Services Coordinator Integrated Waste Specialist Management Analyst Senior Personnel Analyst Weed and Seed Program Coordinator
436	Electrical Supervisor Senior Planner
437	

RANGE	TITLE
438	Budget Officer
	Events Supervisor
	Housing Program Supervisor
	Land Surveyor
	Property Agent
	Public Safety Business Services Analyst
	Senior Business Analyst
	Software Analyst III
	Systems Engineer II
439	Administrative Services Officer
	Community Facilities Districts Administrative Officer
440	Associate Civil Engineer
	Associate Traffic Engineer
	Transportation Planner
441	Airport Manager
	Building Maintenance Superintendent
	Fleet Manager
	Housing and Urban Development Manager
	Parks Operations Superintendent
	Parks Planning and Development Manager
	Purchasing Manager
	Recreation Program Manager
	Streets Superintendent
	Urban Forestry Superintendent
	Wastewater Collections Superintendent
	Water Superintendent
442	Customer Services Division Manager
	Manager of Budget and Financial Analysis
	Software Analyst IV
	Supervising Building Inspector
	Supervising Construction Inspector
	Systems Engineer III
443	

RANGE	TITLE
444	Deputy Chief Building Official Principal Planner Solid Waste Program Manager Transit Manager
445	Accounting Division Manager
446	Water Quality Control Superintendent Information Technology Unit Manager
447	Business Development Division Manager Chief Building Official Planning Division Manager Senior Civil Engineer Traffic Engineer
448	
449	
450	
451	
452	
453	
455	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-139

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO.

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

Laboratory Analyst III

The job specification for this classification is being created as part of a reorganization and expansion of the Water Quality Laboratory to operate new sophisticated analytical equipment. The job specification for the classification of Laboratory Analyst III, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after February 27, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO FEBRUARY 2007
No. 3340

LABORATORY ANALYST III

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION:

Performs a variety of chemical, biochemical, and physical analyses of water, domestic and industrial wastewater, receiving waters, and other samples, using a variety of laboratory instruments and equipment; and may perform varied bacteriological analysis as required.

DISTINGUISHING CHARACTERISTICS

The Laboratory Analyst III is considered the lead level in the Laboratory Analyst series. The class is distinguished from the Laboratory Analyst II by the analysis of complex and difficult laboratory procedures involving GC, GCMS, ICPMS, AA. Incumbents may be assigned projects and may direct the work of the Laboratory Analyst I/II on certain project assignments.

SUPERVISON EXERCISED AND RECEIVED

Receives general supervision from the Environmental Laboratory Supervisor. May exercise technical or functional supervision over assigned staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Perform a full range of chemical and biological tests following standardized procedures as related to treatment, quality control and distribution of drinking water and of domestic and environmental compliance, wastewater effluent and receiving waters.

Interpret results of analysis, recognizing problems, which may occur during the process; determine the cause for and recommends corrective measures; evaluate results of chemical testing.

Serve as technical consultant regarding chemical treatment and analytical testing to plant staff such as plant operators, environmental compliance inspectors and plant engineers on matters relating to the wastewater treatment process.

Essential Functions: (Continued)

Perform calculations, complete forms maintain records and prepare oral and written reports of work performed.

Maintain proper quality assurance and follow work safety procedures; recommend improvement to work procedures, methods and forms.

Prepare standards, chemical solutions and reagents, clean glassware and specialized equipment.

Operate and maintain laboratory instruments and equipment such as atomic absorption/mass spectrophotometer, gas chromatograph, flow injection analyzer and others as needed.

Collect wastewater, storm water, receiving water and potable water distribution system samples.

Provide input to assist in maintaining and developing State and EPA approved test methods and procedures.

Assist with special projects, reports, and implementation of a quality assurance/ quality control program, according to regulatory requirement.

Assist in maintaining the laboratory Chemical Hygiene Plan according to regulatory requirements.

Provide training to laboratory staff in the use of sophisticated analytical instruments.

Provide supervision of staff in the absence of the Environmental Laboratory Supervisor.

Marginal Functions:

Performs related duties as assigned.

QUALIFICATIONS

Knowledge of:

Standard methods used in the analysis of water and wastewater.

Principals and practices used in water, wastewater and environmental compliance analyses.

Knowledge of: (Continued)

Organic, inorganic, physical chemistry and biochemistry.

Principals and operation of atomic absorption mass spectrometer and gas chromatograph.

Sampling techniques and statistical analysis, principles of water and wastewater treatment.

Basic computer operations.

Pertinent Federal, State, and local laws, codes and regulations.

Ability to:

Analyze and interpret the results of complex laboratory tests of water and wastewater.

Operate laboratory equipment in a safe manner.

Understand and carry out oral and written instructions.

Maintain accurate records and prepare complete and concise reports.

Make timely and accurate calculations.

Establish and maintain cooperative-working relationships with those contacted in the course of work.

Occasionally lift and carry up to 50 lbs. of weight.

Assist in the evaluation and acquisition of laboratory equipment.

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

A minimum of three years of laboratory experience in a water, wastewater, environmental or industrial setting, performing testing, analysis and control.

Training:

Possession of a Bachelor of Science degree from an accredited college or university in chemistry, biochemistry, biology or closely related scientific field. The degree must include upper division coursework in chemistry.

License or Certificate:

Possession of Laboratory Analyst III certificate issued by the California Water Environmental Association is required by the end of probationary period.

Must possess a valid California driver's license and have a satisfactory record.

WORKING CONDITIONS

Environmental Conditions:

Laboratory and occasional field environment; exposure to potentially hazardous chemicals; work in or with water and wastewater; exposure to inclement weather conditions; some work is performed in varying temperatures and humidity.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking, standing or sitting for prolonged periods of time, manual dexterity, the ability to accurately distinguish color. Occasionally lift and carry up to 50 lbs. of weight.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-140

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-319 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES TO ESTABLISH THE SALARY RANGE FOR LABORATORY ANALYST III AT SALARY RANGE 130.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-319, which approved the Class Range Table for General Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2006-319. Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective May 23, 2006," attached to Resolution No. 2006-319, is hereby amended as shown on the amended **Exhibit "A"** entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective February 27, 2007," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" establishes the salary range for Laboratory Analyst III at range 130.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after February 27, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective **February 27, 2007**

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Police Clerk I
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II Police Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Animal Control Officer I Electrical Technician I Equipment Service Technician Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

RANGE	TITLE
115	Accounting Technician
	Administrative Services Technician I
	Code Enforcement Officer I
	Community Service Officer I
	Customer Services Account Clerk III
	Senior Administrative Office Assistant
	Wastewater Treatment Plant Attendant
116	Equipment Operator
	Fire Prevention Technician I
	Motor Sweeper Operator
	Traffic Operations Technician
	Used Oil Coordinator
	Wastewater Collection System Operator
	Water Distribution System Operator
117	Electrical Technician II
118	Customer Services Accounting Technician
	Fleet Procurement Specialist
	Parking Lot Maintenance Crewleader
	Parks Crewleader
	Recreation Coordinator
	Senior Storeskeeper
	Tree Trimmer
119	Administrative Services Technician II
	Animal Control Officer II
	Assistant Buyer
	Building Maintenance Mechanic
	Civil Engineering Technician I
	Code Enforcement Officer II
	Community Service Officer II
	Maintenance Mechanic – Parks
	Maintenance Mechanic – Pumps
	Public Information Technician
	Wastewater Treatment Plant Operator

RANGE	TITLE
120	Accountant I Assistant Electrician Equipment Mechanic Fire Prevention Technician II Laboratory Analyst I Senior Equipment Operator Traffic Painter Crewleader Water Resource Specialist I Welder/Fabricator
121	Wastewater Treatment Plant Relief Operator
122	Heavy Equipment Mechanic Cross Connection Specialist Fire Equipment Mechanic Law Enforcement Academy Recruit Tree Trimmer Crewleader Water Conservation Specialist
123	Airport Maintenance Crewleader Civil Engineering Technician II Identification Technician I Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I Environmental Compliance Inspector I Equipment Mechanic Crewleader Laboratory Analyst II Operation and Maintenance Crewleader Planning Assistant Plant Mechanic Water Resource Specialist II
125	Crime Analyst
126	Building Inspector I Heavy Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I

RANGE	TITLE
127	Civil Engineering Assistant Identification Technician II Senior Fire Equipment Mechanic
128	Community Development Program Specialist II Electrician Environmental Compliance Inspector II Instrument Repair Technician Senior Wastewater Treatment Plant Operator
129	
130	Building Inspector II Construction Inspector Housing Rehabilitation Specialist II **Laboratory Analyst III** Project Coordinator
131	Senior Civil Engineering Assistant
132	Environmental Review Specialist Senior Environmental Compliance Inspector
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-141

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH BOYLE ENGINEERING CORPORATION IN THE NOT-TO-EXCEED AMOUNT OF $452,207 FOR THE DESIGN OF SYLVAN AVENUE BETWEEN MILLBROOK AVENUE AND CLAUS ROAD, AND LITT ROAD FROM SYLVAN AVENUE TO THE NORTH END OF THE GROGAN PARK SITE, AND AUTHORIZING THE COMMUNITY FACILITIES DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, following a Request for Qualifications which was sent to engineering firms, eight firms were asked to provide a proposal for the design of various road improvement projects, and

WHEREAS, a selection team interviewed eight consulting firms, and

WHEREAS, the Selection Committee determined that Boyle Engineering Corporation rated highest for the design of the Sylvan Avenue from Millbrook Avenue to Claus Road, and Litt Road from Sylvan Avenue to the north end of the Grogan Park site, in accordance with Administrative Directive 3.1, and

WHEREAS, the District Engineer has recommended that Boyle Engineering Corporation be accepted as the most qualified engineering consulting firm for engineering design services for the "Sylvan Avenue from Millbrook Avenue to Claus Road, and Litt Road from Sylvan Avenue to the north end of the Grogan Park site" project, and

WHEREAS, the District Engineer has recommended accepting the proposal of Boyle Engineering Corporation, in an amount not-to-exceed $452,207.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between City of Modesto Community Facilities

District and Boyle Engineering Corporation for engineering design services for the project titled "Sylvan Avenue from Millbrook Avenue to Claus Road, and Litt Road from Sylvan Avenue to the north end of the Grogan Park site" project in the not-to-exceed amount of $452,207.00.

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-142

A RESOLUTION AMENDING THE FY 06-07 CIP BUDGET BY DECREASING THE APPROPRIATION FOR THE MARY GROGAN COMMUNITY PARK PROJECT (P501) BY $170,000 AND RETURNING THOSE FUNDS TO RESERVES, THEN TRANSFER FROM THE PARKS CFF FUND TO THE VILLAGE ONE #2 CFD #2004-1 CIP FUND, REAPPROPRIATING $170,000 FROM THE VILLAGE ONE #2 CFD #2004-1 CIP FUND TO THE SYLVAN AVENUE BETWEEN MILLBROOK AVENUE AND CLAUS ROAD PROJECT (X536) TO FULLY FUND THE SYLVAN AVENUE BETWEEN MILLBROOK AVENUE AND CLAUS ROAD, AND THE LITT ROAD FROM SYLVAN AVENUE TO THE NORTH END OF THE GROGAN PARK SITE PROJECT

WHEREAS, on October 3, 2006, by Resolution No. 2006-637 the Council of the City of Modesto adopted the 2006/2007 Capital Improvement Program, and

WHEREAS, the 2006/2007 Capital Improvement Program included projects titled "Mary A. Grogan Community Park" (P501) and "Sylvan Avenue from Millbrook to Claus" (X536), and

WHEREAS, the street improvements on Litt Road adjacent to the Grogan Park site are being combined with the Sylvan Avenue project in an effort to take advantage of the cost savings associated with combining two medium sized projects into one large project, and

WHEREAS, staff recommends decreasing the CIP Account P501 "Mary Grogan Community Park" project by $170,000 and returning those funds to reserves, then transfer from the Parks CFF Fund to the Village One #2 CFD #2004-1 CIP fund, then reappropriating $170,000 from the Village One #2 CFD #2004-1 CIP fund to the CIP Account X536 "Sylvan Avenue from Millbrook to Claus" to provide for the Parks CFF

share of the costs for this work and to fully fund the design of the "Sylvan Avenue Millbrook to Claus, and the Litt Road Sylvan to north end of Grogan Park site" project,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves amending the FY 06-07 CIP budget by decreasing the CIP Account P501 "Mary Grogan Community Park" project by $170,000 and returning those funds to reserves, then transfer from the Parks CFF Fund to the Village One #2 CFD #2004-1 CIP fund, then reappropriating $170,000 from the Village One #2 CFD #2004-1 CIP fund to the CIP Account X536, "Sylvan Avenue from Millbrook to Claus" to provide for the Parks CFF share of the costs for this work and to fully fund the design of the "Sylvan Avenue Millbrook to Claus, and the Litt Road Sylvan to north end of Grogan Park site" project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-143

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR PROPOSALS (RFP) FOR THE PROVISION OF TRANSIT TICKET PRINTING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, TRANSIT DIVISION, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $20,000.

WHEREAS, the current contract for Modesto Area Express (MAX) transit ticket printing services was last bid in 2004 for a three-year period and will expire May 1, 2007, and

WHEREAS, Dillingham Tickets is the current contractor, and

WHEREAS, the new vendor selected through the RFP process will provide seven (7) different types of transit tickets, and

WHEREAS, the City provides specifications and artwork for each type of ticket and requires deliveries be made to specific locations at specified times according to the needs of the Transit Division, and

WHEREAS, funds for the transit ticket printing services are budgeted in 6540-165-1672-0205, and

WHEREAS, Modesto Municipal Code ("MMC") Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment, or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Proposal for transit ticket printing services will conform to MMC Section 8-3.203,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed proposals for the purchase of transit ticket printing services to be opened in the Office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed proposals are opened they shall be tabulated and analyzed by the Purchasing Division and Transit Staff and a report submitted to Council.

SECTION 3. The Purchasing Manager is hereby authorized to issue a formal Request for Proposals for the provision of Transit ticket printing services for the Public Works Department, Transit Division, for a two (2) year agreement with three (3) one-year extensions options at the sole discretion of the City, for a total estimated annual cost of $20,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST:

Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-144

A RESOLUTION APPROVING THE FINAL MAP OF SPORTSMEN ESTATES IN THE BASELINE DEVELOPED AREA OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH WJC DEVELOPMENT, LLC.

WHEREAS, WJC DEVELOPMENT, LLC ("Subdivider"), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 3.72 acres, known as Sportsmen Estates ("SUBDIVISION"), in the Baseline Developed Area, and

WHEREAS, WJC Development, LLC is proposing to develop a subdivision, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 3rd day of March, 2006, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto and the City Engineer have certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said final map be approved; that the dedications for public streets and easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public use; and that the City Clerk be authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid and after Subdivider

has furnished securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with WJC Development, LLC, as required by Section 4-4.604(c) of the Modesto Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-145

A RESOLUTION REJECTING THE SOLE BID FOR "MARSHALL PARK RENOVATION" AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE

WHEREAS, the sole bid for "Marshall Park Renovation" was opened at 11:00 a.m. on January 23, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the sole bid received for "Marshall Park Renovation" was 50% above the architect's estimate, and

WHEREAS, the sole bid for the project unreasonably exceeded the architect's estimate, and

WHEREAS, during the bid evaluation process staff determined that there was insufficient bid competition. Therefore, staff recommends the bid be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the sole bid received for "Marshall Park Renovation", opened in the office of the City Clerk on January 23, 2007, is hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-146

A RESOLUTION REJECTING THE TWO BIDS FOR THE PROJECT TITLED "SYLVAN AND MARSHALL PARK SPLASH PADS" AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE

WHEREAS, the two bids received for "Sylvan and Marshall Splash Pads" were opened at 11:00 a.m. on January 23, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the two bids received for "Sylvan and Marshall Splash Pads" were 95% and 205% above the architect's estimate, and

WHEREAS, all bids for the project exceeded the architect's estimate by an excessive amount, and

WHEREAS, during the bid evaluation process staff determined that the two bids unreasonably exceeded the architect's estimate. Therefore, staff recommends the bids be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the two bids received for "Sylvan and Marshall Splash Pads", opened in the office of the City Clerk on January 23, 2007, are hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-147

A RESOLUTION APPROVING THE MASTER AGREEMENT ADMINISTERING AGENCY-STATE AGREEMENT FOR TRANSPORTATION-RELATED FEDERAL AID PROJECTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MASTER AGREEMENT, PROGRAM SUPPLEMENTAL AGREEMENTS, FUND EXCHANGE AGREEMENTS, AND/OR FUND TRANSFER AGREEMENTS

WHEREAS, the City of Modesto uses various federally funded programs for transportation related projects, and

WHEREAS, these federal funds are controlled by the State of California through its agency, Caltrans, and

WHEREAS, the terms and conditions for use of these funds are established by an agreement between the City and Caltrans, and

WHEREAS, the Master Agreement for all of the federally funded projects has been revised by Caltrans to incorporate the various changes in regulations and policies, and

WHEREAS, approving the Master Agreement is requisite for the City to continue use of these programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Master Agreement Administering Agency-State Agreement for transportation-related Federal Aid Projects.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Master Agreement, Program Supplemental Agreements, Fund Exchange Agreements and/or Fund Transfer Agreements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-148

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE TRENCH DRAIN INSTALLATION AT GENERAL AVIATION T-HANGARS PROJECT, ACCEPTING THE BID AND APPROVING A $189,637.00 CONTRACT WITH GRANITE CONSTRUCTION COMPANY FOR THE PROJECT TITLED, "TRENCH DRAIN INSTALLATION AT GENERAL AVIATION T-HANGARS," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Trench Drain Installation At General Aviation T-Hangars" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Trench Drain Installation At General Aviation T-Hangars" were opened at 11:00 a.m. on February 6, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $189,637.00 received from Granite Construction Company be accepted as the lowest responsible bid and the contract be awarded to Granite Construction Company,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Granite Construction Company, in the amount $189,637.00, and hereby awards Granite Construction Company, the contract titled "Trench Drain Installation At General Aviation T-Hangars."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-149

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE SLURRY SEAL INSTALLATION AT GENERAL AVIATION T-HANGARS PROJECT, ACCEPTING THE BID AND APPROVING A $60,930.00 CONTRACT WITH VALLEY SLURRY SEAL COMPANY, FOR THE PROJECT TITLED, "SLURRY SEAL INSTALLATION AT GENERAL AVIATION T-HANGARS," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Slurry Seal Installation at General Aviation T-Hangars" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Slurry Seal Installation at General Aviation T-Hangars" were opened at 11:00 a.m. on February 6, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $60,930.00 received from Valley Slurry Seal Company be accepted as the lowest responsible bid and the contract be awarded to Valley Slurry Seal Company,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Valley Slurry Seal Company, in the amount $60,930.00, and hereby awards Valley Slurry Seal Company, the contract titled "Slurry Seal Installation at General Aviation T-Hangars."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-150

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE WOODLAND AVENUE IMPROVEMENTS AT CARPENTER ROAD PROJECT, ACCEPTING THE BID AND APPROVING A $196,284.50 CONTRACT WITH TEICHERT CONSTRUCTION FOR THE PROJECT TITLED, "WOODLAND AVENUE IMPROVEMENTS AT CARPENTER ROAD," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Woodland Avenue Improvements at Carpenter Road" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Woodland Avenue Improvements at Carpenter Road" were opened at 11:00 a.m. on February 6, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $196,284.50 received from Teichert Construction be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Teichert Construction, in the amount $196,284.50, and hereby awards Teichert Construction, the contract titled "Woodland Avenue Improvements at Carpenter Road".

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh,

who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-151

A RESOLUTION APPROVING THE TUOLUMNE RIVER BANK EROSION PROJECT AND ADOPTING A MITIGATED NEGATIVE DECLARATION (MND) AND A MITIGATION MONITORING PROGRAM (MMP) FOR THE PROJECT (SCH# 2006102058).

WHEREAS, due to heavy rains over the past year, erosion on a portion of the Tuolumne River embankment near Neece Drive has occurred, and

WHEREAS, the erosion left a gravity sewer pipe undermined and unsupported in two locations of approximately two (2) linear feet each, and

WHEREAS, at one of these locations, a manhole's concrete footing is partially exposed and unsupported, and

WHEREAS, the same conditions exist for approximately 200 feet upstream and 100 feet downstream along the river's edge, and

WHEREAS, as an emergency measure, the City has backfilled underneath the pipeline in the unsupported location to temporarily stabilize the manhole and protect the pipe from further undermining, and

WHEREAS, the recommended corrective work at the site includes (1) adding soil backfill above the pipe and down the slope (above the water surface, and most likely below the water line) to provide adequate cover for the pipe, (2) addition of a foundation of rock slope protection, and (3) approximately 300 linear feet of rock slope protection to be added upstream and downstream of the affected pipeline segment to further stabilize the bank, and

WHEREAS, on March 28, 2006 Council, by Resolution No. 2006-172, authorized a contract with Kleinfelder in the amount of $61,800, with $20,000 in contingency funds, for permitting assistance and environmental review support for this project, and

WHEREAS, at this same meeting, Council, by Resolution No. 2006-173, authorized the solicitation of a request for proposals (RFP) for performance of the project, and

WHEREAS, several state and federal permits are required because the improvements and restorations could directly affect the river, and

WHEREAS, as the City is lead agency for this project, Council approval and its associated MND is required prior to permit approval by the various agencies,

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declarations (EA/PW No. 2006-11) provides for a lead agency to prepare an Initial Study on any proposed Project to analyze whether the Project may cause a significant effect on the environment, and

WHEREAS, the City of Modesto Department of Public Works has prepared an Initial Study/Mitigated Negative Declaration (SCH #2006102058) as provided for by CEQA, and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on October 17, 2006 and ended on November 17, 2006, and

WHEREAS, the City received no public comments on the draft Initial Study/Mitigated Negative Declaration and no changes to the document were necessary as a result, and

WHEREAS, a Mitigation Monitoring Program (MMP) is included and incorporated within the Initial Study/Mitigated Negative Declaration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring Plan prepared for the Tuolumne River Bank Erosion Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The recitals set forth above are true and correct.

2. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified that the proposed mitigation measures/Best Management Practices would reduce all potentially adverse impacts to less-than-significant levels.

3. Before the Initial Study/Mitigated Negative Declaration was released for public review, feasible mitigation measures were made by or agreed to by the City, which will avoid or mitigate the effects to a point where clearly no significant effect will occur.

4. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2)).

5. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.

6. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is included in the Mitigated Negative Declaration, which is on file with the City Clerk.

7. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/PW 2007-04) provides the substantial evidence to support findings 1 through 6, above.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Tuolumne River Bank Erosion Project, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the Initial Study/Mitigated Negative Declaration (EA/PW 2007-04), copy of which is on file with the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City of Modesto Public Works Department, Wastewater Collections Division, is the custodian of the documents and other materials, which constitute the record of proceedings upon which its decision is based. The records are located at the office of the City of Modesto Public Works Deputy Director, 1212 Sutter Avenue, Modesto, CA 95351.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Public Works Director is hereby authorized and directed to file a Notice of Determination within five (5) business days with the Stanislaus County Clerk and the Governor's Office of Planning Research, State Clearinghouse and Planning Unit, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-152

A RESOLUTION ACCEPTING A DEED OF AVIGATION AND HAZARD EASEMENT FROM BEARD LAND IMPROVEMENT COMPANY THAT ALLOWS AIRCRAFT FLIGHT OVER REAL PROPERTY ON HOOVER AVENUE LOCATED OFF MITCHELL ROAD NORTH OF THE MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE ACCEPTANCE ON BEHALF OF THE CITY.

WHEREAS, Beard Land Improvement Company has requested a Deed of Avigation and Easement for real property located on Hoover Avenue, located off Mitchell Road north of the Modesto City-County Airport in the City of Modesto, and

WHEREAS, Modesto City-County Airport is an active airport with commercial and general aviation aircraft arrivals and departures that will be flying over and near the parcel of land that is being sold, and

WHEREAS, Beard Land Improvement Company provided the City of Modesto with a Deed of Avigation and Hazard Easement (Deed), at no cost, that will assign perpetual, assignable easement in and over the real property named in that document, and

WHEREAS, the Deed gives the Airport certain rights that ensure safe flight over the property, and authorizes access to the property for specific purposes stated in the Deed, and

WHEREAS, the Deed dedicates easement and right-of-way that will allow continued flight operations at Modesto City-County Airport,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Deed of Avigation and Hazard Easement from Beard Land Improvement Company.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to sign the Deed of Avigation and Hazard Easement on behalf of the City of Modesto.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carrier and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-153

A RESOLUTION ADOPTING CRITERIA FOR THE PRIORITIZATION OF STAFF WORK ON SPECIFIC PLANS

WHEREAS, from time to time, the volume of Specific Plans and related projects received for processing exceeds the available staff resources required to provide all projects with "top priority" service, and

WHEREAS, on July 10, 2006, August 7, 2006 and September 11, 2006, the Economic Development Committee of the City Council of the City of Modesto received a staff presentation regarding potential criteria for prioritization of work, and directed staff to schedule a discussion before the full Council of the matter, and

WHEREAS, selecting a set of criteria will provide the private sector as well as staff with guidance regarding the relative priority of various specific plan development proposals, and

WHEREAS, the establishment of such criteria is general policy-making and is not a "project" under Section 15378 (b) (2) of the California Environmental Quality Act (CEQA) Guidelines, and

WHEREAS, said matter was considered by the City Council on February 27, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby adopts criteria for the prioritization of Specific Plans, attached hereto as **Exhibit "A"**, and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT "A"
Specific Plan Prioritization Criteria
November 8, 2006 [1]

Scoring 1=low 3=high	SPECIFIC PLAN PRIORITIZATION CRITERIA
3	**Within the City Limits** ▪ *Is the planning area currently within the City Limits?*
3	**Provides Critical Area wide Infrastructure Linkage** ▪ *To what degree does the project fill a critical area wide gap in infrastructure improvements (e.g. roadways, sewer or water facilities)?*
3	**Fiscal Benefit** ▪ *Does the project provide a defined fiscal benefit?*
3	**Economic Development** ▪ *Does the project serve a defined economic development goal (i.e. business park, potential for job creation/retention, improves jobs/housing balance, etc.).* ▪ *Does the project have an identified end user?*
3	**Affordable Housing** ▪ *Extent project meets affordable housing policies (e.g. mix of housing choices) as per the Modesto Housing Element?*
2	**Compliance with existing General Plan policies** ▪ *Extent to which the project conforms to General Plan policies?* ▪ *Does the project require General Plan Amendment(s)?*
2	**Ability to Serve** ▪ *Are water and sewer available to serve the site currently or are they projected to be available by the time the Specific Plan and associated entitlements are complete/adopted?*
2	**Affirmative Measure M vote** ▪ *Was Measure M vote positive?*
2	**Existing specific plan** ▪ *Is there already an adopted specific plan in place?* ▪ *Are only minor modifications proposed?*
1	**Community Benefit** ▪ *Does the proposed project include a defined community benefit? (This could be a new fire station, new or expanded city park, a portion of a regional trail linkage, or similar improvement).*
1	**Innovative Concept** ▪ *Does the project propose innovative land use designs not found in other developments?* ▪ *Does the project include superior energy conservation techniques over and above that required by the General Plan and Building Codes?*
1	**Existing CFD** ▪ *Is there an existing CFD formed within the project area?*
1	**Administrative Draft Specific Plan** ▪ *Completion of an administrative draft specific plan, signifying significant time/investment in the project to date.*
1	**Other** ▪ Other benefits, including project bolsters general fund, benefit to future residents within the planning area, based on superior plan design, benefits outside the planning area, etc.
1	**Time in process (per EDC)**
1	**Existing CFD (per EDC)**
1	**Incorporates design guidelines (per EDC)**

[1] *Criteria reflects comments received from the Economic Development Committee on September 11, 2006*

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-154

A RESOLUTION ADOPTING CITY OF MODESTO DEVELOPMENT APPLICATION SUBMITTAL REQUIREMENTS

WHEREAS, the City of Modesto has established a Process Improvement program for development processes, which program has identified the need for increased clarity and specificity in submittal requirements for development applications, and

WHEREAS, after a public hearing held on January 22, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-04 that adoption of submittal requirements for development applications will benefit public health, safety and welfare for the following reasons:

a. Establishment of submittal requirements ensures that adequate information is available on which to make decisions regarding land development projects.

b. California state law requires that local jurisdictions have a standard by which an application is determined to be complete for processing.

and,

WHEREAS, said matter was set for a public hearing of the City Council to be held on February 27, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that adoption of submittal requirements for development applications is consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-04 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3435-C.S. on the 27th day of February, 2007, amending Sections 4-4.401 and 4-4.502 and repealing Sections 4-4.402 and 4-4.403 of the Municipal Code relating to submittal requirements for tentative subdivision and parcel maps.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Development Application Submittal Requirements as shown in **Exhibit "A"** attached hereto and incorporated herein by reference are hereby adopted.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of February, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"

CITY OF MODESTO
DEVELOPMENT APPLICATION SUBMITTAL REQUIREMENTS

CITY OF MODESTO
Community and Economic Development Department/Planning Division
P.O. Box 642 1010 Tenth Street, Suite 3300
Modesto, Ca 95354
(209) 577-5267 (209) 491-5798 FAX

Abandonment Application Submittal Requirements

GENERAL REQUIREMENTS:

- ☐ 1. The Uniform Development Application must be typed or printed and filled in completely.
  - ☐ a. If the applicant is not the property owner, the property owner shall designate the applicant as the authorized agent to act on his or her behalf and both shall sign this application.
- ☐ 2. Abandonment petition signed by all affected property owners (i.e. property owners with an interest in property underlying right-of-way to be abandoned, all immediately adjacent owners, and any parties whose access will be affected).
- ☐ 3. Financial Interest Disclosure Form.
- ☐ 4. Environmental Information Form if required as determined by the Planning Division per the California Environmental Quality Act.
- ☐ 5. Title report showing underlying fee ownership of right-of-way to be abandoned.
- ☐ 6. Drawings:
  - ☐ a. Thirty (30) sets of abandonment map at a scale sufficient to adequately show the details of the area to be abandoned.
  - ☐ b. If larger than 8½" X 11", plans shall be folded to a size of approximately 8½" X 11". *Plans will not be accepted for filing unless folded.*
  - ☐ c. If larger than 8½" X 11", six (6) copies reduced to 8½" X 11".
  - ☐ d. Scale of 1":100' for large areas or 1":50' for small areas.
  - ☐ e. One (1) set provided in electronic format on CD or DVD, AutoCAD or .jpg format
- ☐ 7. Photographs of the project site and surrounding properties where needed to illustrate development.
- ☐ 8. All applicable filing fees (see adopted fee schedule).

MAP REQUIREMENTS:

- ☐ 1. Scale, north point, and date.
- ☐ 2. Vicinity map.
- ☐ 3. Name and business address of person or firm who prepared the map.
- ☐ 4. Clearly depict the boundaries of the area to be abandoned.
- ☐ 5. Location of existing and structures and improvements in relation to area to be abandoned.
- ☐ 6. Names, existing widths and centerlines of all adjoining and contiguous streets, width of adjacent streets from centerline to edge of property line, and distance of property to nearby street intersections (if property is located mid-block).
- ☐ 7. Location and character of all existing and proposed street improvements, including curb and gutter, and sidewalk.
- ☐ 8. Identify traffic improvements needed as a result of the proposed project, if any.
- ☐ 9. Location and character of all existing public utilities within and adjacent to area to be abandoned.

Submittal Requirements for Revised Plans (after City has accepted the application and deemed it complete)

Submittals of revised plans shall include the following:

☐ 1. All changes shall be designated by deltas or clouds on the revised plans.

☐ 2. Notes describing all changes made to the plan, keyed to the deltas or clouds.

☐ 3. The date that the revisions were made.

Failure to include the above requirements on revised plan will be grounds for rejecting revised plans.

FOR YOUR INFORMATION: Staff may deem additional submittal information necessary to adequately analyze the project, complete environmental review for the project, or make recommendations to the Board of Zoning Adjustment, Planning Commission or City Council. Completion of the application does not presume approval nor staff support of the application. Such approval is discretionary with the Director, Board of Zoning Adjustment, Planning Commission, and/or City Council. The Board of Zoning Adjustment, Planning Commission, or City Council may deny, modify, or conditionally approve the application.

All entitlement decisions of the Planning Commission or Board of Zoning Adjustment are final unless appealed within fifteen (15) days of the date on which the decision is made. The appeal shall be in writing and filed with the City Clerk. The appeal must set for the specific reasons for the appeal. All applicable fees must accompany appeals. Building permits, certificates of occupancy, or licenses will not be issued until the appeal period has elapsed. If the entitlement decision is appealed, building permits, certificates of occupancy, or licenses will not be issued until the final decision has been made on the appeal or the appeal is withdrawn.

CITY OF MODESTO
Community and Economic Development Department/Planning Division
P.O. Box 642 1010 Tenth Street, Suite 3300
Modesto, Ca 95354
(209) 577-5267 (209) 491-5798 FAX

Lot Line Adjustment
Submittal Requirements

GENERAL REQUIREMENTS:

☐ 1. The Uniform Development Application must be typed or printed and filled in completely.

  ☐ a. If the applicant is not the property owner, the property owner shall designate the applicant as the authorized agent to act on his or her behalf and both shall sign this application.

☐ 2. Evidence of property ownership, e.g. deed, title insurance policy.

☐ 3. Notarized Lot-Line Adjustment Agreement and Legal Descriptions.

☐ 4. Legal Descriptions of the existing parcels and of the parcels as they will exist after the Adjustment is completed.

☐ 5. Eight (8) copies of drawing of the proposed lot-line adjustment on 8-1/2" x 11".

Show structures—existing proposed to be removed, parking spaces and driveways, utility easements and utility lines, access ways and parking agreements and their relationship, including dimensions, to property lines before and after. Identify the properties. All drawings to be to scale and accurate. Include north arrow. Include or attach vicinity map depicting location of subject properties.

  ☐ a. One (1) set provided in electronic format on CD or DVD, to include AutoCAD and .jpg formats.

☐ 6. Applicable filing fees (see adopted fee schedule) and Recording Fee.

Submittal Requirements for Revised Plans (after City has accepted the application and deemed it complete)

Submittals of revised plans shall include the following:

☐ 1. All changes shall be designated by deltas or clouds on the revised plans.

☐ 2. Notes describing all changes made to the plan, keyed to the deltas or clouds.

☐ 3. The date that the revisions were made.

Failure to include the above requirements on revised plan will be grounds for rejecting revised plans.

FOR YOUR INFORMATION: Staff may deem additional submittal information necessary to adequately analyze the project. Completion of the application does not presume approval of the application.

All entitlement decisions are final unless appealed within fifteen (15) days of the date on which the decision is made. Appeals to staff decisions shall be in writing and filed with the Community and Economic Development Department. The appeal must set forth the specific reasons for the appeal. All applicable fees must accompany appeals. Building permits, certificates of occupancy, or licenses will not be issued until the appeal period has elapsed. If the entitlement decision is appealed, building permits, certificates of occupancy, or licenses will not be issued until the final decision has been made on the appeal or the appeal is withdrawn.

CITY OF MODESTO
Community and Economic Development Department/Planning Division
P.O. Box 642 1010 Tenth Street, Suite 3300
Modesto, Ca 95354
(209) 577-5267 (209) 491-5798 FAX

Second Story Dwelling Review Submittal Requirements

GENERAL REQUIREMENTS:

☐ 1. The Second-Story Dwelling Review Application must be typed or printed and filled in completely.
  ☐ a. If the applicant is not the property owner, the property owner shall designate the applicant as the authorized agent to act on his or her behalf and both shall sign this application.

☐ 2. Two (2) sets of site plans and elevations of the proposed project (see attached requirements).
  ☐ a. Size: sheets not less than 18" X 24", nor greater than 32" X 42" in size.
  ☐ b. All plans shall be folded to a size of approximately 8½" X 11". *Plans will not be accepted for filing unless folded.*
  ☐ c. Other plans may be required depending on the complexity of the project.

☐ 3. Applicable filing fees (see adopted fee schedule)

SITE PLAN REQUIREMENTS-SECOND STORY REVIEW

The site plan is a part of the application and becomes part of the official record. In the case of appeal, it will be reduced photographically and included in the agenda report. It is, therefore, necessary that the plan contain complete and clear graphic information relative to the application to assist the public, City staff, and Board of Zoning Adjustment (if appealed) in reviewing the proposal.

The site plan must be legible and its information organized so that it is readily understandable. Additional information may be necessary under the circumstances of a particular application. In general, however, the site plan should be prepared in accordance with the following requirements:

☐ 1. A legend including at least the following information:
  ☐ a. Assessors parcel number
  ☐ b. Address
  ☐ c. Building and paved area coverage area and percent
  ☐ d. Landscaping area and percent

☐ 2. Scale, north point, and date. (Plans shall be drawn to a scale sufficient to show required details).

☐ 3. Vicinity map.

☐ 4. Identification of all multi-story construction. Show all windows, balconies, and exterior stairways.

☐ 5. Location of existing and proposed structures and improvements in relation to street, alley, or property lines.

☐ 6. Property dimensions and lot size.

☐ 7. Building dimensions.

- ☐ 8. Setbacks.
- ☐ 9. For projects involving redesign of existing development, the site plan(s) must clearly show both the existing and proposed development.
- ☐ 10. Location and nature of proposed landscaping, particularly as it relates to privacy issues.
- ☐ 11. Location and detail of proposed walls, fences, or other screening structures, including height and materials.
- ☐ 12. Location of existing residences on surrounding properties.
- ☐ 13. Where needed, provide sight line diagrams/analysis.

ELEVATION AND FLOOR PLAN REQUIREMENTS

- ☐ 1. Building elevations shall conform to the following requirements:
  - ☐ a. Dimension height of all structures from the highest adjacent curb to the top of slab and to the roof peak on all elevations.
  - ☐ b. Dimension height of all floors from the highest adjacent curb.
  - ☐ c. Building elevations shall depict all sides of building and indicate colors and materials proposed. Provide detail including dimensions and type of windows/doors for all upper-story windows, exterior doors, and balconies.
  - ☐ d. Dimension section drawings to show grade differential and structures/building heights.
- ☐ 2. Provide floor plans for each story. Detail all upper-story windows and balconies.

Submittal Requirements for Revised Plans (after City has accepted the application and deemed it complete)

Submittals of revised plans shall include the following:

- ☐ 1. All changes shall be designated by deltas or clouds on the revised plans.
- ☐ 2. Notes describing all changes made to the plan, keyed to the deltas or clouds.
- ☐ 3. The date that the revisions were made.

Failure to include the above requirements on revised plan will be grounds for rejecting revised plans.

FOR YOUR INFORMATION: Staff may deem additional submittal information necessary to adequately analyze the project, complete environmental review for the project, or make recommendations to the Planning Commission, Board of Zoning Adjustment or City Council. Completion of the application does not presume approval nor staff support of the application. Such approval is discretionary. The Director may deny, modify, or conditionally approve the application.

All entitlement decisions are final unless appealed within fifteen (15) days of the date on which the decision is made. Appeals to staff decisions shall be in writing and filed with the Department of Community and Economic Development. The appeal must set forth the specific reasons for the appeal. All applicable fees must accompany appeals. Building permits, certificates of occupancy, or licenses will not be issued until the appeal period has elapsed. If the entitlement decision is appealed, building permits, certificates of occupancy, or licenses will not be issued until the final decision has been made on the appeal or the appeal is withdrawn.

CITY OF MODESTO
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(209) 577-5267 (209) 491-5798 FAX

Tentative Subdivision and Parcel Map Submittal Requirements

GENERAL REQUIREMENTS:

- ☐ 1. The Uniform Development Application must be typed or printed and filled in completely.
  - ☐ a) If the applicant is not the property owner, the property owner shall designate the applicant as the authorized agent to act on his or her behalf and both shall sign this application.
- ☐ 2. Financial Interest Disclosure Form.
- ☐ 3. Environmental Information Form if required, as determined by the Planning Division per the California Environmental Quality Act. (some Parcel Maps do not require this form, please inquire).
- ☐ 4. Evidence of property ownership, e.g. deed, title insurance policy.
- ☐ 5. Maps:
  - ☐ a. Thirty (30) sets of the subdivision or parcel map conforming to the attached requirements.
  - ☐ b. Maps shall be not less than 18" X 24", nor greater than 32" X 42" in size.
  - ☐ c. Scale of 1" = 100' for large areas, or a scale of 1" = 40' for small areas unless otherwise approved by the Planning Division.
  - ☐ d. All maps shall be folded to a size of approximately 8½" X 11".
  - ☐ e. Six (6) sets of maps reduced to 8½" X 11" and ten (10) sets reduced to 11" X 17".
  - ☐ f. One (1) set provided in electronic format on CD or DVD, AutoCAD or .jpg formats.
- ☐ 6. Photographs of the project site and surrounding properties where needed to illustrate development.
- ☐ 7. All applicable filing fees (see adopted fee schedule).

NOTE: If a proposed map requires adoption of a GPA, a SP or SPA or a change in zoning/other zoning related approval before it can be deemed consistent with the applicable plans or zoning, then the map application will not be deemed complete until all GP, SP and/or zoning requirements have been approved and are in effect. Major map revisions/resubmittals which require recirculation to City staff or other agencies will be processed as a new application and will result in a new "deemed complete" date.

UTILITIES REQUIREMENTS:

The following requirements apply to major projects*, defined as a project with 50 or more dwelling units or the equivalent (see p.2). If you are not sure if this applies to your project, please consult with the Public Works Department-Current Facilities Planning, 209-571-5801. Please see Public Works-Current Facilities Planning for assistance with the following Water, Wastewater, and Storm Drainage requirements

Water:

- ☐ 1. Water demand calculations for all major projects are required. Water demand calculations supporting all facility assumptions shall be land-use based and generated for total build out of the project.
- ☐ 2. For major projects, identify and demonstrate the adequacy of the anticipated water supply for the project.

Wastewater:

☐ 1. Wastewater capacity calculations for all major facilities are required. Design calculations supporting all facility assumptions shall be land-use based and generated for total build out of the project.

Storm Drainage/Treatment:

☐ 1. Identify and demonstrate the capacity of the downstream facilities expected to accommodate storm drainage flows from the proposed project area, where proposing to utilize downstream facilities for storm drainage (hydrology and hydraulic reports).

☐ 2. Storm drainage capacity calculations for all major projects are required (including temporary and permanent facilities). Design calculations supporting all facility assumptions shall be land-use based and generated for total build out of the project.

☐ 3. Soils Report – 1 copy.

TRAFFIC REQUIREMENTS:

☐ 1. A Traffic Study is required, per City Council policy, for projects producing 100 or more peak-hour trips.

☐ 2. Narrative: Identify financing sources for traffic improvements implementation.

☐ 3. Submittal plan shall include bicycle facilities as required by the Non-Motorized Transportation Plan, where applicable.

ADDITIONAL SUBMITTAL REQUIREMENTS:

Additional information, such as any of the following items, may be required based on further review of the development application. The contents of these items are described in other handouts, State regulations, or the City's Ordinances:

☐ Noise Study

☐ Biological Assessment

☐ Parking Study

☐ Drainage Report

☐ Arborist Report (trees)

☐ Sight line diagrams/analysis (multi-story construction adjacent to residences)

* Major projects for utility purposes are defined as follows:

1. 50 or more dwelling units.
2. A proposed shopping center or business establishment employing more than 50 persons or having more than 20,000 square feet.
3. A proposed commercial office building employing more than 50 persons or having more than 10,000 square feet of floor space.
4. A proposed hotel or motel having more than 50 rooms.
5. A proposed industrial, manufacturing, or processing plant or industrial park planned to house more than 50 persons, occupying more than 3 acres of land or having more than 30,000 square feet of floor area.
6. A mixed-use project that includes one or more of the projects specified above.
7. A project that would demand an amount of water equivalent to or greater than the amount of water required or wastewater generated by a 50 dwelling unit project.

TENTATIVE SUBDIVISION MAP/PARCEL MAP REQUIREMENTS:

Maps shall be clearly and legibly reproduced and shall include the following information:

☐ 1. A key or location map on which shall be shown the general area including adjacent property, subdivisions and roads.

☐ 2. Legend including:

- ☐ a. **For Subdivision Maps** (only): The tract name.
- ☐ b. Date, north point, scale and sufficient description to define location and boundaries of the proposed map.
- ☐ c. Name, address, phone and fax number and of recorded owner or owners.
- ☐ d. Name, address, phone and fax number and of the subdivider.
- ☐ e. Name, business address, phone and fax number and of the engineer who prepared the map. (Maps must be stamped and signed with a valid stamp.)
- ☐ f. Acreage of proposed tract to the nearest tenth ($1/10^{th}$) of an acre.

Traffic requirements:

☐ 1. Sufficient elevations or contours to determine the general slope of the land and the high and low point thereof. Elevation data for proposed and existing street improvements sufficient to establish vertical alignment.

☐ 2. The locations, names, and widths of all existing and proposed roads, streets, highways, and right-of-ways in the proposed map, both public and private. All dedications shall be clearly identified and distinguished from existing rights of way. Public and private facilities shall be clearly distinguished.

☐ 3. The locations, names and existing width of all adjoining and contiguous highways, streets, and ways.

☐ 4. Names, existing widths and centerlines of all adjoining and contiguous streets, width of adjacent streets from centerline to edge of property line, and distance of property to nearby street intersections (if property is located mid-block).

☐ 5. Location and character of all existing and proposed street improvements.

☐ 6. Identify traffic improvements needed as a result of the proposed project.

Utility requirements:

☐ 1. Locations and size of all pipelines and structures used in connection therewith.

☐ 2. Alignment and location of all backbone water facilities (i.e. pipes eight inches and larger, wells, wellhead treatment facilities, tanks, booster pump stations, ASR wells, connections to adjacent facilities, etc.).

☐ 3. Alignment and location of all backbone wastewater facilities (i.e. pipes ten inches and larger, lift stations, connections to adjacent facilities, etc.).

☐ 4. Alignment and location of all backbone storm drain facilities (i.e. pipes ten inches and larger, lift stations, detention basins, outfall facilities, basin service roads, connection to adjacent facilities, flood hazard areas, etc.), as applicable.

☐ 5. Plans must address any on-site stormwater treatment and how it is proposed to be handled. On-site treatment is required for any map of 10 or more lots.

☐ 6. Location, size, and character of all existing and proposed private and public utilities above and below ground.

☐ 7. The widths, location and purposes of all existing and proposed easements.

General Requirements:

- ☐ 1. Lot layout, lot **and block** numbers, and dimensions of each lot.
- ☐ 2. Identify land uses on surrounding properties.
- ☐ 3. City limit boundary lines in the general vicinity of the map.
- ☐ 4. Bearings and distances to quarter-section bounds within the general vicinity of the map.
- ☐ 5. **For Subdivision Maps:** Boundaries of any units within the subdivision if the subdivision is to be recorded in phases.
- ☐ 6. The outline of any existing buildings to remain in place and their locations (with pertinent dimensions) in relation to existing or proposed street and lot lines. Structures and trees to be removed.
- ☐ 7. Location, size and type of all existing trees on the property and proposed public property.
- ☐ 8. Location of all areas adjacent to inundation or storm water overflow and the location, width and direction of flow of all watercourses. If any portion of the map is within the 500-year flood zone or any floodway, depict flood zone/floodway boundaries on map.
- ☐ 9. **Exception:** A statement must be submitted on or accompanying the map providing Justification and reasons for any exceptions to provisions of the City's subdivision regulations, zoning regulations, or Standard Specifications which are requested in conjunction with the proposed map. Exceptions may require additional processing procedures that may extend the processing time for the tentative map.

Environmental review is required for tentative subdivision maps. Unless there has been previous environmental review of the "project" or it is concurrently under environmental review in connection with a zoning application, an "Environmental Information Form" and the environmental processing fee must be submitted with the tentative map (see adopted fee schedule). Make a single check for total fees for tentative map processing and environmental review payable to the City of Modesto.

Normally, environmental review is not required for tentative parcel maps. However, it is required if any of the following conditions or circumstances exist:

- ☐ 1. The parcel map is to create more than 4 parcels.
- ☐ 2. The parcel map will not conform to the General Plan or zoning regulations.
- ☐ 3. Variances or exceptions are required for approval.
- ☐ 4. All services and access to the proposed parcels to City standards are not available.
- ☐ 5. The parcel was involved in a division of a larger parcel within previous two years.
- ☐ 6. The parcel has an average slope of greater than 20%.
- ☐ 7. The parcel is wholly or partially within a riparian corridor as defined in the General Plan Master EIR.

If environmental review is required, an "Environmental Information Form" and the environmental processing fee must be submitted with the tentative map (see adopted fee schedule). A single check for the total fee for tentative parcel map processing and environmental review may be made payable to the City of Modesto.

Planning Commission action on tentative subdivision and parcel maps is final unless appealed to the City Council within 15 days.

Submittal Requirements for Revised Maps (after City has accepted the application and deemed it complete):

Submittals of revised Maps shall include the following:

☐ 1. All changes shall be designated by deltas or clouds on the revised map.

☐ 2. Notes describing all changes made to the map, keyed to the deltas or clouds.

☐ 3. The date that the revisions were made.

Failure to include the above requirements on revised map will be grounds for rejecting revised map.

FOR YOUR INFORMATION: Staff may deem additional submittal information necessary to adequately analyze the project, complete environmental review for the project, or make recommendations to the Planning Commission, Board of Zoning Adjustment or City Council. Completion of the application does not presume approval nor staff support of the application. Such approval is discretionary with the Director, Board of Zoning Adjustment, Planning Commission, and/or City Council. The Board of Zoning Adjustment, Planning Commission, or City Council may deny, modify, or conditionally approve the application.

All entitlement decisions of the Planning Commission or Board of Zoning Adjustment are final unless appealed within fifteen (15) days of the date on which the decision is made. The appeal shall be in writing and filed with the City Clerk. The appeal must set for the specific reasons for the appeal. All applicable fees must accompany appeals. Building permits, certificates of occupancy, or licenses will not be issued until the appeal period has elapsed. If the entitlement decision is appealed, building permits, certificates of occupancy, or licenses will not be issued until the final decision has been made on the appeal or the appeal is withdrawn.

Please note that for applications involving both discretionary approvals (such as rezonings and specific plan amendments) and quasi-judicial approvals (such as tentative subdivision or parcel maps), the quasi-judicial application **cannot be deemed complete** or scheduled for a public hearing until the discretionary application has been approved by the City Council and becomes effective (for actions requiring adoption of an ordinance, such as a rezoning, the action becomes effective 30 days after the second reading of the ordinance).

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Variance
Submittal Requirements

GENERAL REQUIREMENTS:

- ☐ 1. The Uniform Development Application must be typed or printed and filled in completely.
  - ☐ a. If the applicant is not the property owner, the property owner shall designate the applicant as the authorized agent to act on his or her behalf and both shall sign this application.
- ☐ 2. Completed **Variance Questionnaire.**
- ☐ 3. Financial Interest Disclosure Form.
- ☐ 4. Environmental Information Form if required as determined by the Planning Division per the California Environmental Quality Act. (not all Variances require this form, please inquire).
- ☐ 5. Evidence of property ownership, e.g. deed, title insurance policy.
- ☐ 6. Plans:
  - ☐ a. Thirty (30) sets of site plans (see Site Plan Requirements).
  - ☐ b. Two (2) sets of floor plans and building elevations. (See Elevation Requirements).
  - ☐ c. Size: sheets not less than 18" X 24", nor greater than 32" X 42" in size.
  - ☐ d. All plans shall be folded to a size of approximately 8½" X 11". *Plans will not be accepted for filing unless folded.*
  - ☐ e. Six (6) sets of plans reduced to 8½" X 11" and ten (10) sets reduced to 11" X 17".
  - ☐ f. One (1) set provided in electronic format on CD or DVD, AutoCAD or .jpg format.
- ☐ 7. Photographs of the project site and surrounding properties where needed to illustrate existing and proposed development.
- ☐ 8. All applicable filing fees (see adopted fee schedule).

SITE PLAN REQUIREMENTS-VARIANCE

The Modesto City Board of Zoning Adjustment requires that all applications for variances must be accompanied by site plans. The site plan is a part of the application and becomes part of the official record. It is usually reduced photographically and included in the agenda report. It is, therefore, necessary that the plan contain complete and clear graphic information relative to the application to assist the public, City staff, and Board of Zoning Adjustment in reviewing the proposal.

The site plan need not contain final construction details, but shall accurately show the location of existing and proposed on-site and off-site improvements and their relationship to streets and alley lines, property lines, and adjacent development where pertinent. The site plan must be legible and its information organized so that it is readily understandable. Additional information may be necessary under the circumstances of a particular application. In general, however, the site plan should be prepared in accordance with the following requirements:

I. Simpler applications (most single-family applications) will require the following information:

☐ 1. A legend including at least the following information:

- ☐ a. Assessors parcel number
- ☐ b. Address
- ☐ c. Building and paved area coverage area and percent
- ☐ d. Landscaping area and percent

☐ 2. Scale, north point, and date. (Plans shall be drawn to a scale sufficient to show required details).

☐ 3. Vicinity map.

☐ 4. Depict variance location and nature.

☐ 5. Identification of all multi-story construction (height and number of stories).

☐ 6. Location of existing and proposed structures and improvements in relation to street, alley, or property lines.

☐ 7. Property dimensions and lot size.

☐ 8. Building square feet and dimensions.

☐ 9. Setbacks.

☐ 10. For projects involving redesign of existing development, the site plan(s) must clearly show both the existing and proposed development.

☐ 11. Location and nature of proposed landscaping, and if landscaping is proposed to be used for storm drain treatment.

☐ 12. Location and detail nature of proposed walls, fences, or other screening structures.

☐ 13. For colored display plans, at least the following should be distinguished in color: buildings, landscaped areas, vehicular areas (parking and driveways).

☐ 14. Land uses and location of adjacent buildings on surrounding properties.

☐ 15. Location of all areas adjacent to inundation or storm water overflow and the location, width and direction of flow of all watercourses. If any portion of the site is within the 500-year flood zone or any floodway, depict flood zone/floodway boundaries on plan.

II. More complex applications may require the following information, please consult with a planner:

☐ 1. Area of parking lot, number of parking spaces.

☐ 2. Fire access turning radii.

☐ 3. Locations of all existing and proposed driveways on the project site and the location of all driveways on adjacent properties within 100' of the proposed project, and properties on the opposite side of all streets.

☐ 4. Layout of existing and proposed parking areas and driveways with pertinent dimensions including Driveway widths, location, and throat depth.

☐ 5. Size and location of trash enclosures, including provision for recyclables.

☐ 6. Names, existing widths and centerlines of all adjoining and contiguous streets, width of adjacent streets from centerline to edge of property line, and distance of property to nearby street intersections (if property is located mid-block).

☐ 7. Location and character of all existing and proposed street improvements, including curb and gutter, and sidewalk.

☐ 8. Identify traffic improvements needed as a result of the proposed project.

☐ 9. Existing and proposed street and alley lines, property lines, property dimensions and easements with pertinent dimensions. Indicate any grade differential between adjacent properties, alleys, or streets.

☐ 10. Existing traffic signals, traffic signs, and pavement markings adjacent to and 250' on either side of the proposed development.

☐ 11. Sufficient elevations or contours to determine the general slope of the land and the high and low point thereof where storm drain facilities are proposed. Elevation data for proposed and existing street improvements sufficient to establish vertical alignment.

☐ 12. Location and size of existing and proposed infrastructure, including sewer, water and storm drain lines in adjacent streets.

☐ 13. City limit boundary lines in the general vicinity of the project.

☐ 14. Sight line diagrams/analysis (multi-story construction adjacent to residences)

ELEVATION REQUIREMENTS-VARIANCE

☐ 1. Building elevations shall conform to the following requirements:

- ☐ a. Dimension height of all structures from the highest adjacent curb to the top of slab and to the roof peak on all elevations.
- ☐ b. Building elevations shall depict all sides of building and indicate colors and materials proposed.

Submittal Requirements for Revised Plans (after City has accepted the application and deemed it complete)

Submittals of revised plans shall include the following:

☐ 1. All changes shall be designated by deltas or clouds on the revised plans.

☐ 2. Notes describing all changes made to the plan, keyed to the deltas or clouds.

☐ 3. The date that the revisions were made.

Failure to include the above requirements on revised plan will be grounds for rejecting revised plans.

FOR YOUR INFORMATION: Staff may deem additional submittal information necessary to adequately analyze the project, complete environmental review for the project, or make recommendations to the Planning Commission, Board of Zoning Adjustment or City Council. Completion of the application does not presume approval nor staff support of the application. Such approval is discretionary with the Director, Board of Zoning Adjustment, Planning Commission, and/or City Council. The Board of Zoning Adjustment, Planning Commission, or City Council may deny, modify, or conditionally approve the application.

All entitlement decisions of the Planning Commission or Board of Zoning Adjustment are final unless appealed within fifteen (15) days of the date on which the decision is made. The appeal shall be in writing and filed with the City Clerk. The appeal must set forth the specific reasons for the appeal. All applicable fees must accompany appeals. Building permits, certificates of occupancy, or licenses will not be issued until the appeal period has elapsed. If the entitlement decision is appealed, building permits, certificates of occupancy, or licenses will not be issued until the final decision has been made on the appeal or the appeal is withdrawn.

Please note that for applications involving both discretionary approvals (such as rezonings and specific plan amendments) and quasi-judicial approvals (such as tentative subdivision or parcel maps), the quasi-judicial application cannot be scheduled for a public hearing until the discretionary application has been approved by the City Council and becomes effective (for actions requiring adoption of an ordinance, such as a rezoning, the action becomes effective 30 days after the second reading of the ordinance).

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Zoning Application Submittal Requirements

(for Use Permit, Plot Plan, P-D Zone and similar applications)

GENERAL REQUIREMENTS:

- ☐ 1. The Uniform Development Application must be typed or printed and filled in completely.
  - ☐ a. If the applicant is not the property owner, the property owner shall designate the applicant as the authorized agent to act on his or her behalf and both shall sign this application.
- ☐ 2. Financial Interest Disclosure Form.
- ☐ 3. Environmental Information Form if required, as determined by the Planning Division per the California Environmental Quality Act.
- ☐ 4. Evidence of property ownership, e.g. deed, title insurance policy.
- ☐ 5. Plans:
  - ☐ a. Thirty (30) sets of site plans (see Site Plan Requirements).
  - ☐ b. Two (2) sets of floor plans and building elevations (see Elevation Requirements).
  - ☐ c. Size: sheets not less than 18" X 24", nor greater than 32" X 42" in size.
  - ☐ d. All plans shall be folded to a size of approximately 8½" X 11".
  - ☐ e. Six (6) sets of plans reduced to 8½" X 11" and ten (10) sets reduced to 11" X 17".
  - ☐ f. One (1) set of plans colored to illustrate the design and development concept of the proposed project shall also be submitted.
  - ☐ g. One (1) set provided in electronic format on CD or DVD, AutoCAD or .jpg formats.
  - ☐ h. Other plans may be required depending on the complexity of the project.
- ☐ 6. Photographs of the project site and surrounding properties where needed to illustrate existing and proposed development.
- ☐ 7. All applicable filing fees (see adopted fee schedule).

UTILITIES REQUIREMENTS:

The following requirements apply to major projects*, defined as a project with 50 or more dwelling units or the equivalent (see p. 2). If you are not sure if this applies to your project, please consult with the Public Works Department-Current Facilities Planning, 209-571-5801. Please see Public Works-Current Facilities Planning for assistance with the following Water, Wastewater, and Storm Drainage requirements.

Water:

- ☐ 1. Water demand calculations for all major projects are required. Water demand calculations supporting all facility assumptions shall be land-use based and generated for total build out of the project.
- ☐ 2. For major projects, identify and demonstrate the adequacy of the anticipated water supply for the project.

Wastewater:

- ☐ 1. Wastewater capacity calculations for all major projects are required. Design calculations supporting all facility assumptions shall be land-use based and generated for total build out of the project.

Storm Drainage/Treatment:

☐ 1. Identify and demonstrate the capacity of the downstream facilities expected to accommodate storm drainage flows from the proposed project area, where proposing to utilize downstream facilities for storm drainage (hydrology and hydraulic reports).

☐ 2. Storm drainage capacity calculations for all major projects are required (including temporary and permanent facilities). Design calculations supporting all facility assumptions shall be land-use based and generated for total build out of the project.

☐ 3. Soils Report – 1 copy.

TRAFFIC REQUIREMENTS:

☐ 1. A Traffic Study is required, per City Council policy for projects producing 100 or more peak-hour trips.

☐ 2. Narrative: Identify financing sources for traffic improvements implementation.

☐ 3. Submittal plan shall include bicycle facilities as required by the Non-Motorized Transportation Plan where applicable.

ADDITIONAL SUBMITTAL REQUIREMENTS:

Additional information, such as any of the following items, may be required based on further review of the development application. The contents of these items are described in other handouts, State regulations, or the City's Ordinances:

☐ Noise Study
☐ Biological Assessment
☐ Parking Study
☐ Drainage Report
☐ Arborist Report (trees)
☐ Sight line diagrams/analysis (multi-story construction adjacent to residences)

* Major projects for utility purposes are defined as follows:
  1. 50 or more dwelling units
  2. A proposed shopping center or business establishment employing more than 50 persons or having more than 20,000 square feet
  3. A proposed commercial office building employing more than 50 persons or having more than 10,000 square feet of floor space
  4. A proposed hotel or motel having more than 50 rooms
  5. A proposed industrial, manufacturing, or processing plant or industrial park planned to house more than 50 persons, occupying more than 3 acres of land or having more than 30,000 square feet of floor area
  6. A mixed-use project that includes one or more of the projects specified above
  7. A project that would demand an amount of water equivalent to or greater than the amount of water required or wastewater generated by a 50 dwelling unit project.

FOR YOUR INFORMATION: Staff may deem additional submittal information necessary to adequately analyze the project, complete environmental review for the project, or make recommendations to the Planning Commission, Board of Zoning Adjustment or City Council. Completion of the application does not presume approval nor staff support of the application. Such approval is discretionary with the Director, Board of Zoning Adjustment, Planning Commission, and/or City Council. The Board of Zoning Adjustment, Planning Commission, or City Council may deny, modify, or conditionally approve the application.

All entitlement decisions of the Planning Commission or Board of Zoning Adjustment are final unless appealed within fifteen (15) days of the date on which the decision is made. The appeal shall be in writing and filed with the City Clerk. The appeal must set for the specific reasons for the appeal. All applicable fees must accompany appeals. Building permits, certificates of occupancy, or licenses will not be issued until the appeal period has elapsed. If the entitlement decision is appealed, building permits, certificates of occupancy, or licenses will not be issued until the final decision has been made on the appeal or the appeal is withdrawn.

Please note that for applications involving both discretionary approvals (such as rezonings and specific plan amendments) and quasi-judicial approvals (such as tentative subdivision or parcel maps), the quasi-judicial application cannot be deemed complete or scheduled for a public hearing until the discretionary application has been approved by the City Council and becomes effective (for actions requiring adoption of an ordinance, such as a rezoning, the action becomes effective 30 days after the second reading of the ordinance).

SITE PLAN REQUIREMENTS

The site plan need not contain final construction details, but should accurately show the location of existing and proposed on-site and off-site improvements and their relationship to streets and alley lines, property lines, and adjacent development where pertinent. The site plan should be legible and its information organized so that it is readily understandable. Additional information may be necessary under the circumstances of a particular application. In general, however, the site plan is to be prepared in accordance with the following requirements:

Plans shall be drawn to a scale sufficient to show the following details:

- ☐ 1. A legend including at least the following information:
  - ☐ a. Assessors parcel number
  - ☐ b. Address (if known)
  - ☐ c. Gross and net size of property
  - ☐ d. Number of units (residential), square footage of buildings, (non-residential)
  - ☐ e. Number of parking spaces (existing and proposed) and parking calculations showing comparison between parking required by Code and that provided
  - ☐ f. Building and paved area coverage area and percent
  - ☐ g. Landscaping area and percent
  - ☐ h. Seats in the facility (where applicable)
- ☐ 2. Scale, north point, and date.
- ☐ 3. Key or vicinity map.
- ☐ 4. If the proposed project is part of a larger complex (such as a shopping center), plans shall be submitted showing the layout of buildings, driveways and parking areas for the entire complex, showing how the proposal relates to the complex as a whole.
- ☐ 5. Sufficient description/labeling to establish the nature of proposed development.
- ☐ 6. Identification of all multi-story construction (height and number of stories).
- ☐ 7. Location of existing and proposed structures and improvements in relation to street, alley, or property lines.
- ☐ 8. Label all important dimensions, including lot dimensions, setbacks, driveway widths and throat depth, parking space dimensions, etc. Label property lines.
- ☐ 9. For projects involving redesign of existing development, the site plan(s) must clearly show both the existing and proposed development.
- ☐ 10. Location and nature of proposed landscaping, and if landscaping is proposed to be used for storm drain treatment. Distinguish landscaped areas by shading or color.
  - ☐ a. Identify plazas, sidewalks, and other hardscape elements
  - ☐ b. Identify and depict any common amenities such as common areas, public open spaces, or recreation areas
- ☐ 11. Size and location of trash enclosures, including provision for recycleables.
- ☐ 12. Location and detail of proposed walls, fences, or screening, including height and materials.
- ☐ 13. Land uses and locations of adjacent buildings on surrounding properties.
- ☐ 14. City limit lines in the general vicinity of the project.

☐ 15. For colored display plans, at least the following should be distinguished in color: buildings, landscaped areas, vehicular areas (parking and driveways).

☐ 16. Where new signs are proposed, all free-standing signs shall be shown on the site plan, all wall signs shown on the building elevations, sign sizes and heights identified, and provide photographs of existing signs on the subject property.

☐ 17. Location of all areas adjacent to inundation or storm water overflow and the location, width and direction of flow of all watercourses. If any portion of the site is within the 500-year flood zone or any floodway, depict flood zone/floodway boundaries on plan.

☐ 18. Depict all above ground utilities (utility boxes, backflow preventers, etc.) and the way in which they are to be screened.

Traffic requirements:

☐ 1. Locations of all existing and proposed driveways on the project site and the location of all driveways on adjacent properties and properties on the opposite side of all streets.

☐ 2. Layout of existing and proposed parking areas and driveways with pertinent dimensions.

☐ 3. Streets information:

- ☐ a. Names, existing widths and centerlines of all adjoining and contiguous streets,
- ☐ b. width of adjacent streets from centerline to edge of property line
- ☐ c. distance of property to nearby street intersections (if property is located mid-block).

☐ 4. Identify traffic improvements needed as a result of the proposed project.

☐ 5. Existing and proposed street and alley lines, property lines, property dimensions and easements with pertinent dimensions. Indicate any grade differential between adjacent properties, alleys, or streets.

☐ 6. Location and nature of existing and proposed street improvements, including curb and gutter, and sidewalk, and bicycle improvements in accordance with the Non-Motorized Transportation Plan.

☐ 7. Existing traffic signals, traffic signs, and pavement markings adjacent to and 250′ on either side of the proposed development.

Utility requirements:

☐ 1. Location and size of existing and proposed infrastructure, including sewer, water and storm drain lines in adjacent streets.

☐ 2. Alignment of all backbone water facilities (i.e. pipes eight inches and larger, wells, wellhead treatment facilities, tanks, booster pump stations, ASR wells, connections to adjacent facilities, etc.).

☐ 3. Alignment of all backbone wastewater facilities (i.e. pipes ten inches and larger, lift stations, connections to adjacent facilities, etc.).

☐ 4. Alignment of all backbone storm drain facilities (i.e. pipes ten inches and larger, lift stations, detention basins, outfall facilities, basin service roads, connection to adjacent facilities, flood hazard areas, etc.), as applicable.

☐ 5. Submittal plans should address the on-site stormwater treatment and how it is proposed to be handled.

☐ 6. Sufficient elevations or contours to determine the general slope of the land and the high and low point thereof where storm drain facilities are proposed. Elevation data for proposed and existing street improvements sufficient to establish vertical alignment.

Fire requirements:

☐ 1. Fire access turning radii

☐ 2. Depict emergency site access consistent with City of Modesto Standard Specifications

☐ 3. Provide dimensions sufficient to determine that all buildings have emergency access consistent with Standard Specifications

ELEVATION REQUIREMENTS

☐ 1. Building elevations shall conform to the following requirements:

- ☐ a. Dimension height of all structures from the highest adjacent curb to the top of slab and to the roof peak on all elevations.
- ☐ b. Building elevations shall depict all sides of building and indicate colors and materials proposed.
- ☐ c. Dimension section drawings to show grade differential and structures/building heights.
- ☐ d. Demonstrate the manner in which roof-mounted equipment is to be screened.

Submittal Requirements for Revised Plans (after City has accepted the application and deemed it complete)

Submittals of revised plans shall include the following:

☐ 1. All changes shall be designated by deltas or clouds on the revised plans.

☐ 2. Notes describing all changes made to the plan, keyed to the deltas or clouds.

☐ 3. The date that the revisions were made.

Failure to include the above requirements on revised plan will be grounds for rejecting revised plans.

Applicants are encouraged to consult the Zoning Regulations or with the Planning staff to determine the required yard areas, off-street parking, building separation or other requirements relative to a particular zone or use.

If an application is approved subject to revision of the original site plan, a new site plan containing such revisions may be required and must be reviewed and approved by the Community and Economic Development Director prior to issuance of a building permit. Precise landscaping, irrigation, or lighting plans may also be required as conditions of approval. Although it is not required that site plans be professionally prepared, it is usually more expedient for the applicant to utilize the services of an architect, engineer, or building designer in preparing the plans.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-155

A RESOLUTION APPROVING A THREE-YEAR FUNDING COMMITMENT, BEGINNING FY 2007-2008, TO 2-1-1 STANISLAUS HELPLINE.

WHEREAS, the City has received a request from United Way of Stanislaus for funding support of the 2-1-1 Stanislaus HelpLine, a toll-free telephone number to confidentially access health and human services, and

WHEREAS, the local United Way Board will not allow the launch of the 2-1-1 telephone line unless three-year funding needs are met, and

WHEREAS, the Finance Committee reviewed this request at their regularly scheduled meeting of February 15, 2007, and recommended its approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the three-year funding commitment to 2-1-1 Stanislaus HelpLine, beginning in FY 2007-2008, in the annual amount of $24,694.

BE IT FURTHER RESOLVED that the Finance Department is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: _____

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-156

A RESOLUTION AUTHORIZING THE PURCHASE OF VIRGIN GRADE, GRANULAR ACTIVATED CARBON (GAC) FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, BY ACCESSING THE TERMS OF A COMPETITIVELY BID CONTRACT FROM THE CITY OF FRESNO, CONTRACT NO. 8836, TO CALGON CARBON CORPORATION, PITTSBURGH, PA, FOR A TERM OF ONE (1) YEAR, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED COST OF $327,500

WHEREAS, granular activated carbon units are pressure vessels filled with granular activated carbon (GAC), and

WHEREAS, the GAC is a filter used to remove and dissolve organics and chlorine from drinking water, and

WHEREAS, these vessels treat water down flow through a fixed bed of GAC, handling varying flows and on-off operating conditions, and

WHEREAS, the GAC has a life expectancy of approximately two (2) years while filtering contaminants out of the groundwater, and

WHEREAS, the City of Modesto currently has nineteen (19) water wells retrofitted with pressure vessels, and

WHEREAS, in an ongoing effort to improve the quality of the City's drinking water, the Public Works Department, Water Division, periodically replaces the GAC in these vessels, as required, and

WHEREAS, a unit change-out requires the spent GAC to be removed from each vessel and replaced with new GAC, and

WHEREAS, once the spent GAC is removed the service contractor transports the spent GAC to a reactivation facility where it is re-furbished and processed for re-use, as non-virgin grade GAC, and

WHEREAS, there are approximately eight (8) water well unit change-outs performed annually, for a total of 352,000 lbs of GAC, and

WHEREAS, by accessing the terms or "piggybacking", the City of Modesto has historically purchased GAC from a competitively bid City of Fresno contract, and

WHEREAS, City staff recommends the purchase of virgin grade, Granular Activated Carbon (GAC) for the Public Works Department, Water Division, by accessing the terms of a competitively bid contract from the City of Fresno, Contract No. 8836, to Calgon Carbon Corporation, Pittsburgh, PA, for a term of one (1) year, with two (2) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $327,500, and

WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, Section 8-3.204 (d), is available where the Purchasing Manager, in his discretion, determines that a process other than the usual formal bid procedure set forth in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality. Acting within his discretion, the Purchasing Manager invoked that exception for this purchase. The purchase of GAC, by accessing the terms of a competitively bid contract from the City of Fresno, Contract No. 8836, to Calgon Carbon Corporation, Pittsburgh, PA, conforms to code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of virgin grade, Granular Activated Carbon (GAC) for the Public Works Department, Water Division, by accessing the terms of a

competitively bid contract from the City of Fresno, Contract No. 8836, to Calgon Carbon Corporation, Pittsburgh, PA, for a term of one (1) year, with two (2) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $327,500.

BE IT FURTHER RESOLVED that the Purchasing Manager will issue a purchase agreement for the purchase of virgin grade, Granular Activated Carbon (GAC) for the Public Works Department, Water Division, by accessing the terms of a competitively bid contract from the City of Fresno, Contract No. 8836, to Calgon Carbon Corporation, Pittsburgh, PA, for a term of one (1) year, with two (2) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $327,500.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-157

Print

A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING BUDGET, ESTIMATING REVENUE OF $25,000 FROM ASSET FORFEITURES TO POLICE OPERATIONS FOR SPECIAL OPERATIONS TO COMBAT DRUG AND DRUG-RELATED CRIMES IN THE COMMUNITY.

WHEREAS, drug use, sales, and activity has continued to plague the city of Modesto, and

WHEREAS, experience reveals drug activity is also connected to property crimes, high technology crimes, and many other forms of criminal activity, and

WHEREAS, current budgeted operating funds do not provide for sustained special operations in order to reduce these types of criminal activity, and

WHEREAS, the Modesto Police Department would like to use this funding for special operations to combat drug and drug-related crimes in the community,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2006/07 Operating Budget is hereby amended as indicated below:

Appropriate:			
To:	0100-190-1941-0429	$25,000	Investigations Fund
Revenue:			
To:	0100-190-1941-7202	$25,000	Asset Forfeitures
Balance Sheet Account:			
From:	8600-BS-3409	$25,000	Seized Forfeitures

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-158

Print

A RESOLUTION AUTHORIZING THE POLICE DEPARTMENT TO SOLICIT INFORMAL REQUEST FOR PROPOSALS (RFP) FOR PSYCHOLOGICAL SERVICES FOR THE POLICE DEPARTMENT FOR A FIVE (5) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL 2007/08 COST OF $60,000.

WHEREAS, since January 1, 1980, the City of Modesto has provided counseling and psychological services to Modesto Police Department full-time sworn police officers, community services officers, and reserves, and

WHEREAS, the Modesto Police Officers Association Memorandum of Understanding requires these services are provided to full-time sworn police personnel, and

WHEREAS, the Modesto Police Department would like to continue to provide these services, and

WHEREAS, this independent contractor services agreement will provide counseling/therapy 24-hours a day, participation in Modesto Police SWAT activations and hostage negotiations, consultation on cases with the Investigative Services Division and Administration, and provides crisis debriefing, and

WHEREAS funds will be included in the Police Department 2007/08 Operating Budget and available in the following account for psychological services:

01000190-1921-0235	$60,000	Psychological Services

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Police Department to solicit informal Request for Proposals (RFP) for Psychological Services for the Police Department for a five (5) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual 2007/08 cost of $60,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-159

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE PROJECT TITLED "2500 SYLVAN AVENUE STREET IMPROVEMENTS PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENTS OF AMOUNTS TOTALING $417,310.32

WHEREAS, a report has been filed by the Public Works Director that the project titled "2500 Sylvan Avenue Street Improvements" has been completed by George Reed Inc., in accordance with the contract agreement dated October 4, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the project titled "2500 Sylvan Avenue Street Improvements" is hereby accepted as complete from said contractor, George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $417,310.32, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-160

Print

A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH WOOD RODGERS, INC., FOR CONSTRUCTION PERIOD AND ADDITIONAL DESIGN SERVICES IN THE AMOUNT OF $205,085, FOR ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT AND FOR REIMBURSABLE EXPENSES FOR THE PROJECT TITLED "PELANDALE AVENUE 6-LANE WIDENING– DALE ROAD TO MCHENRY AVENUE", AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT. THIS SECOND AMENDMENT BRINGS THE TOTAL CONTRACT TOTAL TO $900,468

WHEREAS, the widening of Pelandale Avenue to full six-lane expressway status is scheduled to commence fiscal year 2006, and

WHEREAS, the roadway improvements will convert Pelandale Avenue to full Expressway status with three (3) new westbound lanes and two (2) new eastbound lanes from Dale Road to McHenry Avenue, and

WHEREAS, within the project limits of the Pelandale Avenue widening project, additional design and engineering analysis are necessary and associated with adjacent land development projects (specific plans) and/or project alternatives along Pelandale Avenue proposed by the City Planning Department, and

WHEREAS, the City plans to install a bus turnout west of Carver Road on the north side of Pelandale Avenue, within the City's 135 ft. Pelandale right-of-way, and

WHEREAS, the City plans to install an at-grade bicycle/pedestrian path along the north side of Pelandale near Prescott Avenue that will include a connection with the bike path at the MID canal and the future path along the south side of Pelandale Avenue, and

WHEREAS, the City plans to construct a detention basin to handle storm water runoff and to modify the proposed drainage system plans to accommodate roadway drainage in the ultimate 6-lane roadway configuration, and

WHEREAS, the City plans to evaluate various alternatives for "single" or "dual-use" drainage basins on City owned property west of the MID Canal No. 6 at the Virginia Corridor intersection with Pelandale Avenue, and

WHEREAS, the revised drainage system design will accommodate both interim and ultimate storm water interception and disposal and allow elimination of roadside ditches where necessary, and

WHEREAS, the various alternatives will include configuration of a detention basin to accommodate predicted storm water volumes, including appropriate landscaping, parking for up to 10 vehicles, and a connection to the proposed cul-de-sac on the eastern side of the canal at Pelandale/McHenry Subdivision, and

WHEREAS, the City plans to install the ultimate irrigation piping system as part of the construction plans for the Pelandale widening project, and

WHEREAS, modification of the design of the roadway cross-sections and grading plans for the roadsides and median will be necessary to accommodate the ultimate landscape irrigation piping design, and

WHEREAS, within the currently agreed construction limits, the City plans to provide street lighting with 200W fixtures on alternating sides of the street every 150 ft. on 28 ft. poles with 15 ft. mast arms, 4 ft. from the back of curb, and

WHEREAS, the original contract did not provide for Post Design Services - Preparation of Construction Contract Addenda; Pre-Construction Services - Assistance

During Advertising; or Construction Support Services - preparation of As-built Drawings and Change Order Drawing Revisions, and

WHEREAS, the City has evaluated the cost and time benefit of providing the aforementioned extra work, and

WHEREAS, the construction of the aforementioned extra work prior to final pavement installation on Pelandale Avenue will avoid future traffic disruption, eliminate the need to remove and restore sections of newly constructed asphalt pavement, and will offer the most effective cost and time alternative for the project, and

WHEREAS, a Second Amendment to the current Consultant design contract for the Pelandale Avenue 6-Lane Widening – Dale Road to McHenry Avenue Project is necessary in order to facilitate the aforementioned design and construction of the required extra work, and

WHEREAS, the roadway improvements will convert Pelandale Avenue to full Expressway status with three (3) new westbound lanes and two (2) new eastbound lanes from Dale Road to McHenry Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to Agreement between the City of Modesto and Wood Rodgers, Inc., for construction period and additional design services in the amount of $205,085, for additional work not included in the Original Agreement and for reimbursable expenses for the project titled "Pelandale Avenue 6-Lane Widening– Dale Road to McHenry Avenue."

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Second Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-161

Print

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING AND INSTALLATION OF AN AUTOMATIC VEHICLE LOCATION (AVL) SYSTEM FOR THE MODESTO AREA EXPRESS (MAX) TRANSIT SYSTEM TO AVAIL TECHNOLOGIES, INC., STATE COLLEGE, PA, IN THE APPROXIMATE AMOUNT OF $948,000.

WHEREAS, a major goal for public transit is to make travel safer and more efficient, while increasing passenger satisfaction, and

WHEREAS, Automatic Vehicle Location (AVL) systems cost-effectively assist transit systems in operating more safely and efficiently while also increasing overall passenger satisfaction, and

WHEREAS, an AVL system uses global positioning (GPS) technology to provide real time communication of exact bus location to the central bus dispatcher, and

WHEREAS, said real time information provides management with a tool to enable them to provide immediate response in the most effective manner to a wide variety of situations that affect both safety and performance , and

WHEREAS, on February 26, 2002, Council approved an agreement with URS Corporation to assist the Transit Division in preparing a Request for Proposal (RFP) for the furnishing and installation of an Automatic Vehicle Location system, and

WHEREAS, on July 5, 2005, Council approved Resolution No. 2005-348, authorizing the Purchasing Manager to formally solicit proposals for the furnishing and installation of an Automatic Vehicle Location (AVL) system, and

WHEREAS, the Purchasing Division solicited Request for Proposal No. 0506-01, for the furnishing and installation of an AVL system, to forty-eight (48) prospective proposers, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, of the forty-eight (48) companies solicited, three (3) companies chose to respond with responsive and responsible proposals, and

WHEREAS, the proposals were evaluated by an evaluation committee and oral interviews were conducted, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommended award of proposal and contract to Avail Technologies Inc. of State College, PA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Proposal No. 0506-01 and contract for the furnishing and installation of an Automatic Vehicle Location system, to Avail Technologies, Inc., of State College, PA in the approximate amount of $948,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-162

Print

A RESOLUTION ACCEPTING THE CFD-FUNDED STORM DRAIN SYSTEM IMPROVEMENTS AND ALL PUBLIC IMPROVEMENTS FOR UNIT 1 EXCLUDING WATER BOOSTER PUMPING STATION, WATER WELL, WATER TANK, YARD PIPING AND MISCELLANEOUS, WELL HEAD TREATMENT, PARK IMPROVEMENTS, AND STREET LANDSCAPE AND IRRIGATION RELATED TO THE GALAS BROTHERS SUBDIVISION UNIT 1 LOCATED IN THE FAIRVIEW VILLAGE SPECIFIC PLAN AREA AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND AUTHORIZING TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, Del Valle Homes, a California corporation ("DEVELOPER"), is the developer of the Galas Subdivision, also known as the Rancho Encantado Subdivision ("DEVELOPMENT"), and

WHEREAS, as a condition of DEVELOPMENT, DEVELOPER was to construct a CFD-funded Storm Drain System ("CFD-FUNDED IMPROVEMENTS") and all Public Improvements ("IMPROVEMENTS") located within the DEVELOPMENT, and

WHEREAS, the Construction Administration Office, in a memorandum to staff, indicates that said CFD-FUNDED IMPROVEMENTS, which is only one of several facilities included in the Acquisition and Shortfall Agreement ("AGREEMENT") between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), a District created pursuant to the provision of the California Government Code Section 53311.5 et. seq. ("DISTRICT") and the DEVELOPER, has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Construction Administration Office, in a memorandum to staff, indicates that said IMPROVEMENTS have been completed to the satisfaction of the Public Works Department, and

WHEREAS, DEVELOPER has filed several warranty bonds to guarantee the IMPROVEMENTS and CFD-FUNDED IMPROVEMENTS in the DEVELOPMENT, and

WHEREAS, the Construction Administration Office has indicated that it would be in order for the City Council to accept said CFD-FUNDED IMPROVEMENTS and IMPROVEMENTS in said development as complete, and authorize the City Clerk to record a Notice of Completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The CFD-funded Storm Drain System, which includes basin landscaping, a concrete maintenance road into the basin, fencing around the basin, a storm drain pump station and a force main to existing storm drain system/outfall per the AGREEMENT, are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for said improvements.
2. The improvements in the GALAS BROTHERS SUBDIVISION UNIT 1 are hereby accepted, excluding Water Booster Pumping Station, Water Well, Water Tank, Yard Piping and Miscellaneous, Well Head Treatment, Park Improvements, and Street Landscape and Irrigation and the City Clerk is hereby authorized to record a Notice of Completion for the improvements.
3. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $4,225,689 upon recordation of the Notice of Completion and receipt of a replacement security, in a form acceptable to the City Attorney, for those improvements which have not been accepted.

4. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $4,225,689 sixty (60) days after the recordation of the Notice of Completion and receipt of a replacement security, in a form acceptable to the City Attorney, for those improvements which have not been accepted, provided no claim is made thereon.

5. The City Clerk is hereby authorized to release the warranty bond to guarantee improvements in the amount of $422,568 one year and one day after the effective date of this resolution and receipt of a replacement security, in a form acceptable to the City Attorney, for those improvements which have not been accepted, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-163

Print

A RESOLUTION ESTABLISHING SUBSTANDARD AND DANGEROUS BUILDING CODE FEES.

WHEREAS, Section 9-8.05.01 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish a fee which shall be imposed on the owner of any property for which a notice and order is issued to recover the cost of inspections and enforcement by the City of Modesto associated with a dangerous building, and

WHEREAS, Section 9-8.07.01 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish an appeal fee to be paid at the time a written appeal notice is filed to recover the costs incurred in the appeal including, but not limited to, staff time to process and handle the appeal, preparation and service of notices and staff appearance at the appeal hearing associated with a dangerous building, and

WHEREAS, Section 9-8.05.01 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish a fee at the conclusion of any matter in which a notice and order has been issued to recover the cost of closing the file, removing or placing liens on the property, at title report, and other costs associated with a dangerous building, and

WHEREAS, Section 9-9.1204 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish a fee which shall be imposed on the owner of any property for which a notice and order is issued to recover the cost of inspections and enforcement by the City of Modesto, associated with a substandard building, and

WHEREAS, Section 9-9.1204 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish a fee at the conclusion of any matter in which a notice

and order has been issued to recover the cost of closing the file, removing or placing liens on the property, a title report, and other costs associated with the matter, and

WHEREAS, Section 9-9.1305 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish an appeal fee to be paid at the time a written appeal notice is filed to recover the costs incurred in the appeal including, but not limited to, staff time to process and handle the appeal, preparation and service of notices and staff appearance at the appeal hearing, associated with a substandard building, and

WHEREAS, the Fees Committee Task Force reviewed the proposed fees on December 18, 2006, at which time it was approved and recommended for submittal to the Finance Committee, and

WHEREAS, the Finance Committee reviewed the proposed fees on January 29, 2007, at which time it was approved and recommended for submittal to the City Council, and

WHEREAS, by an agenda report to the City Council from the Police chief and the Community and Economic Development Director, dated February 27, 2007, City staff recommended establishing substandard and dangerous building code fee, and

WHEREAS, said matter was set for public hearing of the City Council to be held at 5:30 p.m. on March 6, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held,

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

SECTION 1. FEES. Fees for substandard and dangerous buildings are hereby established as follows:

(a) Substandard Building

Notice and Order Fee	$950.00
Appeal Fee	$1,000.00
Closing Fee	$125.00

(b) Dangerous Building

Notice and Order Fee	$950.00
Appeal Fee	$1,000.00
Closing Fee	$125.00

SECTION 2. EFFECTIVE DATE. The fees relating to substandard buildings will become effective upon the adoption of this resolution. The fees relating to dangerous buildings will not become effective unless and until Ordinance No. 3436-C.S. authorizing the establishment of said fees becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-164

Print

A RESOLUTION APPROVING AN AGREEMENT WITH COMCATE, INC. TO UTILIZE ITS CUSTOMER RELATIONSHIP MANAGEMENT SYSTEM CALLED EFEEDBACK MANAGER TO IMPROVE COMMUNITY ACCESS TO CITY GOVERNMENT IN THE AMOUNT OF $86,000 OVER A FIVE YEAR PERIOD AND AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENT

WHEREAS, the City of Modesto desires to improve the community's access to city government, and

WHEREAS, it is recommended that the City of Modesto implement a web-based software application through which members of the community and City employees can communicate to the City Council and other designated managers within the City through the Internet, and

WHEREAS, the requested application enables the City to manage requests for information or service, recommendations for change, complaints or general concerns regarding the City of Modesto, and

WHEREAS, the goal of this software application is to allow more public access to city government, and

WHEREAS, a sole source agreement with Comcate, Inc., is requested as they provide the only stand-alone application that meets governmental requirements for Brown Act compliance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and Comcate, Inc., in the amount of $86,000 over a five-year period is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-165

Print

A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 ANNUAL OPERATING BUDGET TO APPROPRIATE $22,100 FROM 0100-800-8000-8003 GENERAL FUND RESERVE TO 7130-070-0744-5452 TECHNOLOGY AND EQUIPMENT REPLACEMENT TO FULLY FUND AN AGREEMENT WITH COMCATE, INC., TO UTILIZE ITS CUSTOMER RELATIONSHIP MANAGEMENT SYSTEM CALLED EFEEDBACK MANAGER.

WHEREAS, the City of Modesto has determined it is desirable to utilized the Customer Relationship Management software called eFeedback Manager, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2006-2007Annual Operating Budget to fund an agreement with Comcate, Inc. to utilize its Customer Relationship Management System called eFeedback Manager as indicated below:

Account	Adjustment	Description
0100-800-8000-8003	($22,100.00)	General Fund Reserve
7130-070-0744-5452	$22,100.00	Technology & Equipment Replacement

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ACALA WOOD, City Attorney

APPROVED AS TO SUFFICIENCY:

By _____
M. WAYNE PADILLA, Director of Finance

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-166

A RESOLUTION APPROVING A JOINT EXERCISE OF POWERS AGREEMENT BY AND BETWEEN THE INDUSTRIAL FIRE DISTRICT, THE CITY OF MODESTO, AND THE CITY OF CERES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Modesto and the City of Ceres entered into a fifteen year contract in 1993 with the Industrial Fire District (District) to provide fire and life safety services to the residents and properties of the District, and

WHEREAS, the revenue collected by the District has been divided equally between the City of Modesto and the City of Ceres, with 4 percent being retained by the District for administrative costs and insurance, and

WHEREAS, the response areas for Modesto and Ceres were determined by the general plan spheres of influence, and

WHEREAS, the current agreement expires in August 2008, and it is critical to establish a new, long-term agreement prior to this date, and

WHEREAS, the City of Modesto desires to enter into a Joint Exercise of Powers Agreement with the Industrial Fire District, the City of Modesto, and the City of Ceres, which will increase the City of Modesto's designated revenue, and

WHEREAS, by participating in the Joint Powers Agency, the City of Modesto will acquire Fire Station #10, which will increase the City's property assets, and

WHEREAS, the Safety and Communities Committee approved this request at the November 6, 2006, meeting for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Joint Exercise of Powers Agreement between the Industrial Fire District, the City of Modesto, and the City of Ceres.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the Joint Exercise of Powers Agreement between the Industrial Fire District, the City of Modesto, and the City of Ceres and the Industrial Fire District.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen, Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-167

Print

A RESOLUTION AWARDING THE BID FOR PERSONAL PROTECTIVE EQUIPMENT (GROUPS 1, 3C, 3D, 5, 6B, 7 AND 8) TO L N CURTIS FOR AN ESTIMATED ANNUAL AMOUNT OF $73,000.00.

WHEREAS, personal protective equipment is paramount to the well being of line personnel, and

WHEREAS, the equipment includes turnout pants and jackets, structure boots, hoods, helmets, gloves, etc., and

WHEREAS, the City provides personal protective equipment to line personnel at the time of hire, and

WHEREAS, that equipment is then replaced when it no longer meets standards for said equipment, and

WHEREAS, on December 12, 2006, Council approved, by Resolution No. 2006-769, the formal solicitation of bids for personal protective equipment, and

WHEREAS, bids were solicited from twenty-two (22) companies, and

WHEREAS, the bid specification was also posted on the City's web site and formally advertised by the City Clerk's office, and

WHEREAS, five (5) companies responded with valid bids, and

WHEREAS, a cost analysis was performed on the bids received, and

WHEREAS, it is recommended that the bids be awarded by grouping, and

WHEREAS, L N CURTIS submitted the lowest responsive and responsible bid for Groups 1, 3C, 3D, 5, 6B, 7 and 8 of the Personal Protective Equipment bid for an estimated annual amount of $73,000.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the award to L N CURTIS, Groups 1, 3C, 3D, 5, 6B, 7 and 8 of the personal protective equipment bid, for an estimated annual amount of $73,000.00 is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen, Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-168

Print

A RESOLUTION AWARDING THE BID FOR PERSONAL PROTECTIVE EQUIPMENT (GROUP 4) TO TOTAL FIRE FOR AN ESTIMATED ANNUAL AMOUNT OF $5,000.00.

WHEREAS, personal protective equipment is paramount to the well being of line personnel, and

WHEREAS, the equipment includes turnout pants and jackets, structure boots, hoods, helmets, gloves, etc., and

WHEREAS, the City provides personal protective equipment to line personnel at the time of hire, and

WHEREAS, that equipment is then replaced when it no longer meets standards for said equipment, and

WHEREAS, on December 12, 2006, Council approved, by Resolution No. 2006-769, the formal solicitation of bids for personal protective equipment, and

WHEREAS, bids were solicited from twenty-two (22) companies, and

WHEREAS, the bid specification was also posted on the City's web site and formally advertised by the City Clerk's office, and

WHEREAS, five (5) companies responded with valid bids, and

WHEREAS, a cost analysis was performed on the bids received, and

WHEREAS, it is recommended that the bids be awarded by grouping, and

WHEREAS, Total Fire submitted the lowest responsive and responsible bid for Group 4 of the Personal Protective Equipment bid for an estimated annual amount of $5,000.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the award to Total Fire, Group 4 of the personal protective equipment bid, for an estimated annual amount of $5,000.00 is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen, Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-169

Print

A RESOLUTION AWARDING THE BID FOR PERSONAL PROTECTIVE EQUIPMENT (GROUPS 2 AND 3A) TO CASCADE FIRE FOR AN ESTIMATED ANNUAL AMOUNT OF $10,000.00.

WHEREAS, personal protective equipment is paramount to the well being of line personnel, and

WHEREAS, the equipment includes turnout pants and jackets, structure boots, hoods, helmets, gloves, etc., and

WHEREAS, the City provides personal protective equipment to line personnel at the time of hire, and

WHEREAS, that equipment is then replaced when it no longer meets standards for said equipment, and

WHEREAS, on December 12, 2006, Council approved, by Resolution No. 2006-769, the formal solicitation of bids for personal protective equipment, and

WHEREAS, bids were solicited from twenty-two (22) companies, and

WHEREAS, the bid specification was also posted on the City's web site and formally advertised by the City Clerk's office, and

WHEREAS, five (5) companies responded with valid bids, and

WHEREAS, a cost analysis was performed on the bids received, and

WHEREAS, it is recommended that the bids be awarded by grouping, and

WHEREAS, Cascade Fire submitted the lowest responsive and responsible bid for Groups 2 and 3a of the Personal Protective Equipment bid for an estimated annual amount of $10,000.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the award to Cascade Fire, Groups 2 and 3a of the personal protective equipment bid, for an estimated annual amount of $10,000.00 is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen, Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-170

A RESOLUTION AWARDING THE BID FOR PERSONAL PROTECTIVE EQUIPMENT (GROUP 3B) TO NORTHERN GLOVE FOR AN ESTIMATED ANNUAL AMOUNT OF $500.00.

WHEREAS, personal protective equipment is paramount to the well being of line personnel, and

WHEREAS, the equipment includes turnout pants and jackets, structure boots, hoods, helmets, gloves, etc., and

WHEREAS, the City provides personal protective equipment to line personnel at the time of hire, and

WHEREAS, that equipment is then replaced when it no longer meets standards for said equipment, and

WHEREAS, on December 12, 2006, Council approved, by Resolution No. 2006-769, the formal solicitation of bids for personal protective equipment, and

WHEREAS, bids were solicited from twenty-two (22) companies, and

WHEREAS, the bid specification was also posted on the City's web site and formally advertised by the City Clerk's office, and

WHEREAS, five (5) companies responded with valid bids, and

WHEREAS, a cost analysis was performed on the bids received, and

WHEREAS, it is recommended that the bids be awarded by grouping, and

WHEREAS, Northern Glove submitted the lowest responsive and responsible bid for Group 3b of the Personal Protective Equipment bid for an estimated annual amount of $500.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the award to Northern Glove, Group 3b of the personal protective equipment bid, for an estimated annual amount of $500.00 is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen, Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-171

A RESOLUTION AWARDING THE BID FOR PERSONAL PROTECTIVE EQUIPMENT (GROUP 6A) TO JAECO FOR AN ESTIMATED ANNUAL AMOUNT OF $1,000.00.

WHEREAS, personal protective equipment is paramount to the well being of line personnel, and

WHEREAS, the equipment includes turnout pants and jackets, structure boots, hoods, helmets, gloves, etc., and

WHEREAS, the City provides personal protective equipment to line personnel at the time of hire, and

WHEREAS, that equipment is then replaced when it no longer meets standards for said equipment, and

WHEREAS, on December 12, 2006, Council approved, by Resolution No. 2006-769, the formal solicitation of bids for personal protective equipment, and

WHEREAS, bids were solicited from twenty-two (22) companies, and

WHEREAS, the bid specification was also posted on the City's web site and formally advertised by the City Clerk's office, and

WHEREAS, five (5) companies responded with valid bids, and

WHEREAS, a cost analysis was performed on the bids received, and

WHEREAS, it is recommended that the bids be awarded by grouping, and

WHEREAS, JAECO submitted the lowest responsive and responsible bid for Groups 6A of the Personal Protective Equipment bid for an estimated annual amount of $1,000.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the award to JAECO, Group 6A of the personal protective equipment bid, for an estimated annual amount of $1,000.00 is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen, Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-172

A RESOLUTION APPROVING CONTINUATION OF THE BLUE BAG RECYCLING PROGRAM, AND AUTHORIZING STAFF TO LAUNCH A PROMOTIONAL CAMPAIGN ENCOURAGING RESIDENTS TO PUT PAPER AND OTHER ORGANICS INTO THE GREEN CAN FOR COMPOSTING ONCE A NEW HORIZONTAL GRINDER HAS BEEN PURCHASED FOR THE COMPOST FACILITY.

WHEREAS, the passage of AB939 required all cities and counties to reduce the amount of garbage going to the landfills by 50% by the year 2000 through the implementation of waste reduction and recycling programs, and

WHEREAS, the City of Modesto has responded to this mandate by implementing a comprehensive waste reduction system including the collection of residential recyclables in bags, separate collection of green waste, food waste, and pruned refuse for composting, used motor oil recycling, CRT recycling, bulky item collection, waste tire recycling, and the operation of a waste-to-energy plant to further reduce disposal and generate electricity from materials which cannot be reduced, reused, recycled, or composted, and

WHEREAS, the City also actively promotes waste reuse, reduction, recycling, and composting through a wide array of educational programs and advertising campaigns, the annual Earth Day in the Park Festival and other community events, workshops on backyard composting, and by inviting citizen participation in the Citizen's Advisory Committee on Recycling (CACOR), and

WHEREAS, by virtue of these significant efforts, the City of Modesto exceeded the state 50% waste reduction mandate, having attained a diversion rate of 54% in 2004, and remains committed to attaining further waste reduction while keeping garbage rates as low as possible, and

WHEREAS, the California Integrated Waste Management Board reports that organics make up 30% of all waste still going to the landfills statewide and thus has targeted the increased diversion of organics as a priority for waste reduction programs, and

WHEREAS, CACOR has conducted an assessment of the blue bag program and evaluated both the cost and effectiveness of other potential methods of residential recycling, and

WHEREAS, after evaluating other options and considering the potential cost to the ratepayers, CACOR has recommended that the City continue the blue bag program, and

WHEREAS, at its January 8, 2007, meeting, CACOR recommended that once the City's Compost Facility has purchased its new horizontal grinder, which will be capable of processing mixed paper and other organics along with green waste, the City should conduct an aggressive public education campaign to encourage residents to put other organics such as food waste, newsprint, magazines, phone books, junk mail, computer paper, paper napkins and towels, and cardboard in the green waste container for composting,

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Modesto that it hereby approves continuation of the blue bag program.

BE IT FUTHER RESOLVED that the Council hereby authorizes staff to launch an aggressive promotional campaign encouraging residents to put other organics into their green waste container for composting once the Compost Facility has purchased the new horizontal grinder.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED
THIS RESOLUTION WAS
RESCINDED BY MODESTO
CITY COUNCIL RESOLUTION
NO. 2007-506
JUL 14 2007

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-173

A RESOLUTION APPROVING QUARTERLY FUEL ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, AND RESCINDING RESOLUTION NO. 2006-579.

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f (2) of the City's Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City's garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

WHEREAS, new maximum rates were calculated, and a recommendation for a new maximum rate schedule was developed, which included a recommendation that quarterly adjustments to the fuel component of the maximum rates be made, and

WHEREAS, the Economic Development Committee met on June 12, 2006, and supported the recommendation to approve adjustments to the maximum rate schedule for City

solid waste collection services, including the recommendation for quarterly fuel adjustments to the maximum rates, and

WHEREAS, a report dated June 13, 2006, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, set forth said recommendations, and

WHEREAS, said report was considered at a public hearing of the City Council on June 27, 2006, and

WHEREAS, during the public hearing on June 27, 2006, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for Garbage Service attached hereto, marked **Exhibit "1"** and incorporated herein by reference,

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

1. The Maximum Charges for Garbage Service as attached hereto, marked Exhibit "1" and incorporated herein by reference are hereby approved.

2. Said Maximum Charges for Garbage Service include twice-a-year bulky item pickup for residential customers and all other residential services as stipulated in the Service Agreements.

3. Said Maximum Charges for Garbage Service shall become effective on April 1, 2007, and shall remain in effect until revised by Council.

BE IT FURTHER RESOLVED that any person who has prepaid garbage service charges for residential garbage service shall receive garbage service for the balance of said prepaid period at the prepaid rates.

BE IT FURTHER RESOLVED that Resolution No. 2006-579 is hereby rescinded, effective April 1, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS

Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:

- One, 96-gallon container for garbage/recyclables
- One, 96-gallon container for green waste
- Blue bag recycling
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment

Standard container service customers may opt for smaller containers; however, maximum rates apply. Containers must be placed in a location set forth in Section 5-5.11 of the Municipal Code.

1. Standard container service –

a. The maximum rate for new sign ups for service or changes in service that occur after July 1, 1996, shall be **$19.64 per month** regardless of size of container. **A fuel component of $0.88 per month is included in the maximum rate for the quarter beginning April 1, 2007 and ending June 30, 2007**. The fuel component may be adjusted quarterly.

b. The maximum rate for each additional garbage container shall be **$14.62 per month**.

2. 60-gallon container service (grandfathered customers) –

a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be **$16.59 per month**. **A fuel component of $0.88 per month is included in the maximum rate for the quarter beginning April 1, 2007 and ending June 30, 2007.** The fuel component may be adjusted quarterly.

b. The maximum rate for each additional garbage container shall be **$14.62 per month.**

3. Fuel Component adjustments - The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October 1/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency.

DETACHABLE CONTAINERS*
Maximum Monthly Rates
Number of Collections Per Week

Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	$ 33.37	$ 56.25	$ 79.10	$101.97	$ 124.84	$ 147.71
1 1/2 CY	$ 44.84	$ 79.10	$113.45	$147.46	$ 182.38	$ 216.33
2 CY	$ 56.25	$ 101.97	$147.71	$193.44	$ 239.16	$ 284.89
3 CY	$ 79.10	$ 147.71	$216.30	$284.89	$ 353.50	$ 422.09
4 CY	$101.97	$ 193.44	$284.89	$376.36	$ 467.82	$ 559.29
5 CY	$124.84	$ 239.16	$353.50	$467.82	$ 585.16	$ 696.48
6 CY	$147.71	$ 284.89	$422.09	$559.29	$ 696.48	$ 833.68

* A detachable container rental rate of $10.00 per month is included in the above schedule.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.18 per cubic yard ($0.77 per month for a 1 cubic yard container collected once a week) is included in the maximum rate for the quarter beginning April 1, 2007, and ending June 30, 2007. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

1. **Pick up charge** - $202.10 per pick up
2. **Rental**
   - $0.85 per day up to 7 day maximum rental
   - $3.00 per day for boxes kept 7 or more days without servicing
   - $10 per day for boxes kept 21 or more days without servicing

3. **Disposal charge** - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle.

COMPACTORS

Maximum Monthly Rates

Front Loader Type:

Compactor Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
3 CY	$152.12	$304.24	$456.36	$608.48	$760.60	$912.72
4 CY	$201.72	$403.44	$605.16	$806.88	$1008.60	$1210.32

Roll-Off Type:

1. 6 CY to 40 CY	$202.10 per pickup
2. Medical waste compactors	$265.00 per pickup
3. Washing compactor	$30.00
4. Disposal Charge:	Actual charge to be paid by customer

EXTRA PICKUPS

1. Standard containers or equivalent	$3.50 plus $1.38/container
2. Detachable containers	$12.00 plus $2.75/cubic yard

SPECIAL SERVICE CONDITIONS

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

DETACHABLE CONTAINER ONLY REPLACEMENT AND CLEANING SERVICE

1 CY	1½ CY	2 CY	3 CY	4 CY	5 CY	6 CY
$10.12	$11.00	$12.10	$15.40	$20.24	$25.08	$29.92

NOTATIONS

1. The above maximum rates include a $0.25 per month per household recycling fee, a $0.05 per cubic yard commercial recycling fee, and a $0.25 per ton industrial recycling fee, payable to the City by the garbage company.
2. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-174

A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE NON SWORN ASSOCIATION (MPNSA) FOR A TERM OF MARCH 13, 2007 THROUGH JULY 23, 2007.

WHEREAS, in March 2006, a group of employees, formerly represented by the Modesto City Employees Association (MCEA), petitioned to form a separate bargaining unit comprised of public safety non-sworn employees, entitled Modesto Police Non Sworn Association (MPNSA), which was recognized in June 2006 as the exclusive representative for the newly created bargaining unit, triggering an obligation to meet and confer with the newly established unit, and

WHEREAS, the City of Modesto and MPNSA have been operating under the terms and conditions of the Memorandum of Understanding for MCEA, and

WHEREAS, representatives of the CITY and MPNSA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated February 26, 2007, a copy of which report is on file in the office of the City Clerk, the CITY and MPNSA have reached agreement on a new MOU which, upon execution, shall replace the MCEA MOU and shall be **attached** hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. SALARY INCREASE. An across-the-board salary increase of 2.5% was effective February 20, 2007 as provided in the MCEA MOU.

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to employees' Health, Dental and Vision coverage shall remain as follows:

	7/25/06
Family	$812
Single	$445
Opt Out	$375

SECTION 3. AGENCY SHOP. By separate ballot, the bargaining unit voted to implement an agency shop agreement.

SECTION 4. ADDITIONAL CHANGES. Other negotiated additions, deletions or amendments to the text of the Memorandum of Understanding deal with retiree court overtime, Field Training pay, uniform allowance, witness pay, employee assistance plan, renegotiations, full understanding and waiver, and elimination of language specific to MCEA, and

WHEREAS, the Council considered this matter at its meeting of March 13, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Police Non Sworn Association (MPNSA), which covers a term from March 13, 2007 through July 23, 2007, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-175

A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR PUBLIC SAFETY NON-SWORN CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO EFFECTIVE MARCH 13, 2007, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2007-174APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE NON SWORN ASSOCIATION (MPNSA) ADOPTING SALARY AND BENEFIT CHANGES AND SETTING FORTH SALARY SCHEDULES FOR PUBLIC SAFETY NON-SWORN CLASSES.

WHEREAS, on March 13, 2007, the City Council adopted Resolution No. 2007-174 approving the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Police Non Sworn Association (MPNSA) and setting forth salary schedules for public safety non-sworn classes, and

WHEREAS, Council desires to establish a Class Range Table for said classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Class Range Table for Public Safety Non-Sworn Classes, entitled "City of Modesto Class Range Table Public Safety Non-Sworn Classes Effective March 13, 2007" which is attached hereto as **Exhibit "A"** and made a part hereof as though set forth in full herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
PUBLIC SAFETY NON-SWORN CLASSES
Effective **March 13, 2007**

RANGE	TITLE
101	
102	
103	
104	
105	
106	
107	Police Clerk I
108	
109	
110	
111	Police Clerk II
112	
113	
114	Animal Control Officer I Evidence and Property Specialist
115	Community Service Officer I
116	Fire Prevention Technician I
117	
118	Animal Control Officer II Community Service Officer II

RANGE	TITLE
120	Fire Prevention Technician II
121	
122	Law Enforcement Academy Recruit
123	Identification Technician I
124	
125	Crime Analyst
126	
127	Identification Technician II
128	
129	
130	
131	
132	
133	
134	Deputy Fire Marshal

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-176

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE PROJECT TITLED "PELANDALE INTERSECTION IMPROVEMENTS PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENTS OF AMOUNTS TOTALING $3,455,926.77.

WHEREAS, a report has been filed by the Public Works Director that the project titled "Pelandale Intersection Improvements Project" has been completed by George Reed Inc., in accordance with the contract agreement dated July 12, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the project titled "Pelandale Intersection Improvements Project" is hereby accepted as complete from said contractor, George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $3,455,926.77, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen, Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-177

A RESOLUTION ACCEPTING THE FLOYD AVENUE IMPROVEMENT PROJECT BETWEEN FINE AVENUE AND CLAUS ROAD RELATED TO THE FALLING LEAF SUBDIVISION AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION

WHEREAS, William Lyon Homes, Inc., a California corporation ("DEVELOPER"), is the developer of the Falling Leaf Subdivision ("DEVELOPMENT"), and

WHEREAS, as a condition of DEVELOPMENT, DEVELOPER was to construct Floyd Avenue between Fine Avenue and Claus Road ("IMPROVEMENTS") located adjacent to the DEVELOPMENT, and

WHEREAS, the City Engineer, in a memorandum to staff, indicates that said IMPROVEMENTS, included in the Acquisition and Shortfall Agreement ("AGREEMENT") between the City of Modesto Community Facilities District No. 2004-1 (Village One #2), a District created pursuant to the provision of the California Government Code Section 53311.5 et. seq. ("DISTRICT") and the DEVELOPER, has been completed to the satisfaction of the Public Works Department, and

WHEREAS, DEVELOPER filed with the City and/or DISTRICT adequate improvement securities to secure faithful performance of this Agreement and to secure payment for labor and materials, and

WHEREAS, DEVELOPER has filed a warranty bond to guarantee the IMPROVEMENTS in the DEVELOPMENT, and

WHEREAS, the City Engineer has indicated that it would be in order for the City Council to accept said IMPROVEMENTS in said development as complete, and authorize the City Clerk to record a Notice of Completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Floyd Avenue Improvement Project, between Fine Avenue and Claus Road, is hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for said improvements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen, Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-178

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CERTIFYING THE FINAL MASTER ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF MODESTO WASTEWATER MASTER PLAN UPDATE (SCH No. 2006052076) IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND MAKING CERTAIN FINDINGS CONCERNING ENVIRONMENTAL IMPACTS, MITIGATION MEASURES, AND ALTERNATIVES TO THE PROJECT, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, IN CONNECTION WITH APPROVAL OF THE PROJECT CONTEMPLATED BY THE FINAL MASTER ENVIRONMENTAL IMPACT REPORT

WHEREAS, in 1997, the City of Modesto ("City") prepared a Wastewater Master Plan ("WWMP") to provide for major rehabilitation of the treatment plan, separation of cannery waste from conventional treatment, improvement to the existing collection system and extension of sewer facilities into areas of new urban development; and,

WHEREAS, in May 1997, the City certified a Master Environmental Impact Report ("MEIR") for the WWMP (SCH No. 96042009) in accordance with the California Environmental Quality Act, Public Resources Section 21000, et seq ("CEQA"); and,

WHEREAS, the City has prepared a WWMP Update to guide the improvement and expansion of its wastewater collection, treatment, and disposal facilities, and operation and maintenance of those facilities over the next 30 years ("Project"); and

WHEREAS, based on the nature of the proposed Project, the potential for new significant impacts as a result of the proposed Project and the potential for changed conditions since the certification of the 1997 MEIR for the WWMP, the City determined

that a Master Environmental Impact Report ("MEIR") was required for the proposed Project;

WHEREAS, on May 12, 2006, the City, as the lead agency, published a Notice of Preparation of a MEIR ("NOP") for the proposed Project; and

WHEREAS, the NOP provided notice of the City's determination, and solicited public input on the proposed scope and content of the MEIR for the proposed Project; and

WHEREAS, on December 21, 2006, the City published and distributed a Draft MEIR for the proposed Project, which was available for public review and comment for a period of 45 days as required by Section 21091 of CEQA; and

WHEREAS, during the 45-day public comment period the City received five letters commenting on the Draft MEIR; and

WHEREAS, the City prepared written responses to all written comments received on the Draft MEIR, said responses being contained in a Final Master Environmental Impact Report ("Final MEIR") for the proposed Project, which Final MEIR was prepared pursuant to Section 15089 of the CEQA Guidelines; and

WHEREAS, the Final MEIR was published and distributed on March 2, 2007, and consists of the Draft MEIR, a list of commentors, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft MEIR made in response to the comments or as staff-initiated text changes, as required by Section 15132 of the CEQA Guidelines; and

WHEREAS, the City proposes to approve and adopt the Project as analyzed by the Final MEIR; and,

WHEREAS, certification of the Final MEIR and approval of the proposed Project were scheduled for hearing by the City Council to be held on March 13, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time evidence both oral and documentary was received and considered by the Council, and

WHEREAS, the City Council has received and considered the Final MEIR for the proposed WWMP Update (SCH No. 2006052076) which analyzes the potential environmental effects of the proposed Project; and

WHEREAS, CEQA requires that, in connection with the certification of a Final MEIR, the decision-making agency make certain written findings.

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

1. The foregoing recitals are true and correct.

2. The Final MEIR has been completed in compliance with CEQA; and

3. The Final MEIR has been presented to the City Council and the Council has reviewed and analyzed the Final MEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the Final MEIR; and

4. That all significant effects of the Project on the environment have been eliminated or substantially eliminated where feasible.

5. That the Findings set forth in Exhibit "A" and incorporated by this reference are hereby adopted as the City's findings under the California Environmental Quality Act ("CEQA"), Public Resources Code Sections 21000, et seq., and the CEQA guidelines, Cal. Code Regs., Title 13, sec. 15000, et seq., relating to the Project. The Findings provide the written analysis and conclusions of the Council regarding the Project's environmental impacts, mitigation measures and alternatives to the Project.

6. That pursuant to Public Resources Code Section 21091 and CEQA Guidelines Sections 15091, et seq., the City Council hereby adopts and makes the Statement of Overriding Considerations as set forth in Section V of **Exhibit A** attached hereto and incorporated by this reference, regarding the remaining significant and unavoidable impacts of the Project and the anticipated environmental, economic, legal, social, technological, and other benefits of the Project. The significant and unavoidable impacts identified in the Final MEIR cannot be avoided or substantially reduced by feasible changes or alterations to the Project, other than the changes or alterations already adopted.

7. The Mitigation Monitoring and Reporting Program for the Final MEIR ("MMRP") is contained in the Final MEIR and is attached to this resolution as **Exhibit "B"**, incorporated by this reference. The MMRP identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action. The Council hereby adopts the MMRP, with the exception of Mitigation Measure B.1.

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

9. The City Council does hereby designate Rich Ulm, Deputy Director of Public Works, for the City of Modesto, at his office at 1010 Tenth Street, Suite 4100, Modesto, California 95354 as the custodian of documents and record of proceedings on which this decision is based; and

10. The City Council does hereby make the foregoing findings with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting certification

of the Final MEIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by commentors to the Draft MEIR and were not certified as part of the Final MEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the Final MEIR and elsewhere in the record.

11. The Final MEIR and all findings contained herein represent the independent judgment of the City of Modesto; and

BE IT FURTHER RESOLVED by the Council that it hereby certifies the Final Master Environmental Impact Report for the WWMP Update (SCH No. 2006052076), a copy of which is available in the City Clerk's Office.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO WASTEWATER MASTER PLAN UPDATE ENVIRONMENTAL IMPACT REPORT (SCH# 2006052076)

FINDINGS AND STATEMENTS REQUIRED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(Public Resources Code, Section 21000 *et seq.*)

I. Introduction

On behalf of the City of Modesto (the "City"), and pursuant to the California Environmental Quality Act ("CEQA"), Turnstone Consulting has prepared a Final Environmental Impact Report (the "FEIR") for the City of Modesto Wastewater Master Plan Update and other related approvals described below (collectively, the "Project"). The City is the lead agency for the FEIR.

To support its certification of the FEIR and approval of the Project, the City Council of the City of Modesto (the "City Council") makes the following findings of fact and statements of overriding considerations (collectively, the "Findings"). These Findings contain the City Council's written analysis and conclusions regarding the Project's environmental effects, mitigation measures, alternatives to the proposed Project, and the overriding considerations which, in the City Council's view, justify the approval of the Project despite its potential environmental effects. These Findings are based upon the entire record of proceedings for the FEIR, as described below.

The Wastewater Master Plan Update proposes a program of facility improvements to be funded by proposed increases in wastewater rates and charges, including collection system and treatment plant improvements, as well as operation and maintenance of the existing and proposed wastewater facilities. The wastewater collection system and Primary Plant improvements will be made within the City's wastewater service area. The City is located in Stanislaus County, California in the central San Joaquin Valley, and the City's wastewater service area includes all of the incorporated City of Modesto, a portion of north Ceres, the unincorporated community of Empire, and unincorporated "islands" in the County within the City that are served by agreement. The Primary Plant is located in the southwestern portion of the City adjacent to the north bank of the Tuolumne River. The Secondary Plant is outside the City limits, and is located approximately 6.5 miles southwest of the City, on the east side of the San Joaquin River. A 60-inch Primary Effluent Outfall pipeline and a Cannery Segregation Line (Outfall) follow a generally diagonal route, carrying primary treated effluent and wastewater from wet industries between the Primary Plant and the Secondary Plant.

The approvals necessary for implementation of the Wastewater Master Plan Update include: approval by the City Council of the Master Plan Update, new wastewater rates and capacity charges to fund construction of facilities identified in the Plan, and subsequent approval documents for individual projects; approval by the State Department of Fish and Game of a lake/streambed Alteration Agreement; approval of encroachment

permits by the State Reclamation Board and the California Department of Transportation; approval of 401 Water Quality Certification and a National Pollutant Discharge Elimination System by the Regional Water Quality Control Board for the Central Valley Region; approval by Stanislaus County of the construction of wastewater collection facilities and new Outfall in County road rights-of-way; granting of permission to cross canals by the Modesto Irrigation District and the Turlock Irrigation District; approval of permits for emergency generators by the San Joaquin Valley Air Pollution Control District; and approval of a Section 404 permit by the U.S. Army Corps of Engineers ("USACE").

II. General Findings and Overview

A. Record of Proceedings and Custodian of Record

The record of proceedings for the City's findings and determinations is available for review by responsible agencies and interested members of the public during normal business hours at 1010 Tenth Street, Suite 4600, Modesto, California. The custodian of these documents is Richard Ulm, Deputy Director of Public Works.

B. Preparation and Consideration of the FEIR and Independent Judgment Findings

The City Council finds, with respect to the City's preparation, review and consideration of the FEIR, that:

- The City retained the independent firm of Turnstone Consulting ("Turnstone") to prepare the FEIR, and Turnstone prepared the FEIR under the supervision and at the direction of the City of Modesto Public Works Department.

- The City circulated the DEIR for review by responsible agencies and the public and submitted it to the State Clearinghouse for review and comment by state agencies.

- The FEIR has been completed in compliance with CEQA.

- The Project will have significant, unavoidable impacts as described and discussed in the FEIR.

- The FEIR is adequate under CEQA to address the potential environmental impacts of the Project.

- The FEIR has been presented to the City Council, and the City Council has independently reviewed and considered information contained in the FEIR.

- The FEIR reflects the independent judgment of the City.

By these Findings, the City Council ratifies, adopts and incorporates the analyses, explanations, findings, responses to comments, and conclusions of the FEIR, except as specifically described in these Findings.

C. Findings Regarding Less-Than-Significant Impacts.

By these Findings, the City Council ratifies and adopts the FEIR's conclusions for the following potential environmental impacts which, based on the analyses in the FEIR, the City Council determines to be less than significant:

1. Land Use

- Impact A.1 – Proposed improvements to the wastewater collection system in the vicinity of established or planned land uses could create land use compatibility conflicts.

- Impact A.2 – The proposed project includes the construction and/or rehabilitation of portions of sewer lines under the watercourses or near the banks of the Tuolumne River and Dry Creek that could conflict with land use plans and policies.

- Impact A.3 – Proposed improvements to the Primary Plant in the vicinity of established or planned land uses could create land use compatibility conflicts.

- Impact A.4 – Proposed improvements in the Secondary Plant and Ranch could result in land use compatibility conflicts.

- Impact A.5 – Proposed improvements in the wastewater collection and treatment system could conflict with applicable land use plans and policies.

2. **Agricultural Resources**

   - Impact B.1 – Construction of Collection System Improvements would not result in the permanent loss of Prime Farmland.

3. **Parks and Recreation**

   - Impact C.1 – The Beard Brook Reliability project could result in an increase in localized noise and dust, and restrict access and enjoyment of Beard Brook Park.

   - Impact C.2 – Construction of a pipeline near the Dryden Municipal Golf Course could result in an increase in localized noise and dust, and restrict access and enjoyment of this recreational facility.

   - Impact C.3 – The rehabilitation of the Primary Effluent Outfall could result in a temporary increase in localized noise and dust, and could temporarily impair access and enjoyment of a park facility at the southwest corner of West Hatch Road and Rancho Encantado Lane.

4. **Water Quality and Hydrology**

   - Impact D.6 – The proposed increase in application of wastewater and biosolids to land would not significantly affect regional groundwater quality.

   - Impact D.7 – Implementation of the project would not result in depletion of groundwater resources.

5. **Biological Resources**

   - Impact E.9 – Construction activities could affect the habitat for Western Pond Turtles, the nesting and foraging habitat for Loggerhead Shrikes, and foraging habitat for Short-eared Owls, Northern Harriers, and Tricolored Blackbirds.

   - Impact E.10 – Construction of a new diffuser in the San Joaquin River, and additional discharges of treated wastewater to the San Joaquin River from the Secondary Plant could affect the spawning habitat or affect the health of the Sacramento Splittail.

6. **Transportation**

   - Impact F.1 – Temporary reduction in roadway capacity and increased traffic delays.

   - Impact F.2 – Short-term traffic increases on roadways due to construction-related vehicle trips.

- Impact F.3 – Increased potential for traffic safety hazards for vehicles, bicyclists, and pedestrians on public roadways during construction.

- Impact F.4 – Increases in vehicle trips to and from the facility sites for operation and maintenance.

7. **Air Quality**

   - Impact G.3 – Emissions during project operation could cause sensitive receptors to be exposed to toxic air contaminants.

   - Impact G.4 – Emissions of objectionable odors could occur during project operation.

8. **Noise**

   - Impact H.2 – Operation of new stationary sources of noise at the Primary and Secondary Plants associated with the proposed project could generate noise.

   - Impact H.3 – Increased trips by Public Works Department employees could cause noise increases for existing sensitive receptors in the project vicinity.

9. **Visual Resources**

   - Impact I.1 – The proposed aboveground structures associated with wastewater collection would impact the visual quality of their surroundings.

   - Impact I.2 – At the Primary and Secondary Plants, the proposed new aboveground structures and alterations to existing aboveground structures could impact the visual quality of their surroundings.

   - Impact I.3 – The proposed area of fill, and the berm around the perimeter of the fill at the Primary Plant would impact visual quality in the vicinity of the project when viewed from surrounding public streets and parks.

10. **Public Health and Safety: Hazardous Materials**

    - Impact J.1 – Hazardous materials use, storage, and transportation during construction would cause potential hazards to the public and the environment.

    - Impact J.2 – Hazardous materials use, storage, and transportation during the operation of the wastewater collection and treatment system would cause potential hazards to the public and the environment.

- Impact J.3 – Increased use of chlorine and sulfur dioxide at the Secondary Plant could expose workers and the public to accidental release of toxic gases.

- Impact J.4 – Construction and operation of the wastewater collection and treatment facilities would increase the amount of hazardous waste generated at the facilities, resulting in increased hazards to the public and the environment.

- Impact J.5 – The project would involve increased use and transport of hazardous waste materials and hazardous wastes within California.

III. Findings and Recommendations Regarding Significant Environmental Impacts

A detailed analysis of the potential environmental impacts and the proposed mitigation measures for the City of Modesto Wastewater Master Plan Update is set forth in Chapter IV of the DEIR, as incorporated into the FEIR. The City Council concurs with the conclusions in the DEIR, as incorporated into the FEIR, that: (i) changes or alterations have been required, or incorporated into, the project which avoid or substantially lessen many of the significant environmental effects identified in the DEIR; and (ii) specific economic, legal, social, technological, or other considerations make it infeasible to substantially lessen or avoid the remaining significant impacts, as further described in the Statement of Overriding Considerations below.

Chapter IV.B. Agricultural Resources

Impact B. 2. Construction of the Phase IA tertiary treatment facilities at the Secondary Plant would directly result in the permanent loss of Prime Farmland.

a) **Potential Impact.** The agricultural resources impact identified above is described and discussed on pages IV.B.8 and IV.B.9 of the DEIR.

b) **Alternatives.** As discussed in Section IV(B)(2) below, the City is adopting Alternative B to the project as proposed.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that the adoption of Alternative B will avoid the proposed project's impact to Prime Farmland. Because the City is adopting Alternative B, there is no reason to adopt Mitigation Measure B.2. The Mitigation Monitoring and Reporting Program is hereby amended to delete Mitigation Measure B.2.

Impact B. 3. Construction of the proposed project components within the Planned Urbanizing Area would result in the cumulative loss of Prime Farmland.

a) **Potential Impact.** The agricultural resources impact identified above is described and discussed on pages IV.B.9 and IV.B.10 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program:

FEIR Mitigation Measure B.3 (p. IV.B.11 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Implementation of Mitigation Measure B.3 would partially mitigate the impact identified above by requiring that future development projects contribute to the California Farmland Conservancy fund, or an equivalent program, to fund farmland preservation project in Stanislaus County. However, preservation of Prime Farmland through agricultural easements or acquisition of other interests in such land, would not mitigate the indirect loss of Prime Farmland to a less-than-significant level. As explained in the DEIR (p. IV.B.11), it is not feasible to fully mitigate this impact, which will remain significant even with mitigation.

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measure B.3 will reduce the impact identified above, such impact would remain significant even with mitigation. Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the impact identified above, as set forth in the Statement of Overriding Considerations below.

IV.D. Water Quality and Hydrology

Impact D.1. Excavation and construction activities could cause erosion and/or result in chemical releases causing degradation of water quality in nearby surface water and/or groundwater bodies.

a) **Potential Impact.** The water quality and hydrology impact identified above is described and discussed on pages IV.D.26 through IV.D.28 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.1 (pp. IV.D.28 through IV.D.30 of the DEIR as amended in the FEIR pursuant to a staff-initiated text clarification).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure D.1 requires the City to prepare a SWPPP to reduce potential impacts to surface water quality through the construction period and identifies specific elements to be included in the SWPPP, including Best Management Practices to mitigate construction-related pollutants and reduce erosion of exposed soil, protocols to educate on-site personnel about the importance of stormwater quality protection, an on-site monitoring program to include both dry and wet weather inspections, and other specific measures that, together, will mitigate potential impacts to water quality resulting from Project-related excavation and construction activities. Implementation of Mitigation Measure D.1 therefore will substantially lessen or avoid the impact identified above.

Impact D.2. Elimination of the cross-connections between the stormwater drainage system and the wastewater collections system could result in localized flooding.

a) **Potential Impact.** The water quality and hydrology impact identified above is described and discussed on pages IV.D.30 and IV.D.31 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.2 (p. IV.D.31 of the DEIR, as amended in the FEIR in response to Comment C-3).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure D.2, as amended in the Final EIR, will substantially lessen or avoid the impact identified above by requiring that prior to approval of each proposed cross-connection elimination project, its design be reviewed by the City Public Works Department specifically to ensure that it will not exacerbate existing flooding problems and will otherwise be fully compliant with City standards for stormwater conveyance.

Impact D.3. Implementation of the proposed project at a rate that does not match projected growth may result in an incremental increase in operation-period surface water quality degradation due to the deficient effluent disposal system.

a) **Potential Impact.** The water quality and hydrology impact identified above is described and discussed on pages IV.D.31 and IV.D.32 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.3 (p. IV.D.32 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure D.3 directs the City to continue to investigate the feasibility of several potential near-term solutions to the deficiencies of the existing effluent system. Implementation of the Wastewater Master Plan as proposed will mitigate the potential impact over time. However, as explained in the DEIR (p. IV.D.32), no feasible mitigation has been identified which can be implemented immediately in order to fully mitigate this impact at this time. Therefore, the impact will remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the impact identified above, as set forth in the Statement of Overriding Considerations below.

Impact D.4. Implementation of the proposed project may result in operation-period surface water quality degradation due to pollutant loading associated with treated wastewater discharges.

a) **Potential Impact.** The water quality and hydrology impact identified above is described and discussed on pages IV.D.33 through IV.D.35 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.4 (p. IV.D.35 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure D.4 directs the City to prepare a study in accordance with applicable State and Federal antidegradation policy standards to demonstrate that any expansion in river discharge capacity will not negatively impact water quality. The DEIR analysis concludes that based on current regulatory requirements, it is likely that implementation of this mitigation measure will mitigate the water quality and hydrology impact identified above to a less-than-significant level. However, as explained in the DEIR (p. IV.D.35), because several permit renewal cycles will occur over the life of the Project, there may be unforeseeable changes in regulatory policies and requirements. For this reason, the City cannot assure that implementation of currently available and identified mitigation measures will be adequate to fully mitigate such impacts identified in the future.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the impact identified above, as set forth in the Statement of Overriding Considerations below.

Impact D.5. Implementation of the proposed project may result in operation-period surface water quality degradation during daily operations and/or during flooding of the Primary Plant and sludge drying area.

a) **Potential Impact.** The water quality and hydrology impact identified above is described and discussed on pages IV.D.35 and IV.D.36 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.5(a) (p. IV.D.37 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure D.5(a) requires the City to retain a qualified registered civil engineer to conduct floodplain studies to determine whether the proposed floodplain encroachments could be constructed without increasing base flood elevations upstream or downstream of the Primary Plant. If such studies indicate that the encroachments can be constructed without impacts to base flood elevations, Mitigation Measure D.5(a) directs the City to work with relevant regulatory agencies to ensure that the design of such encroachments is appropriate. However, if such studies indicate that construction of the flood wall and levee system would increase base flood elevations, the mitigation measure directs the City to consider feasible options to offset such increases. Implementation of these mitigation measures would substantially lessen or avoid this water quality and hydrology impact. However, if no feasible options are available, the proposed fill placement and flood walls would not be constructed, and the impact to water quality would be significant and unavoidable.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the impact identified above, as set forth in the Statement of Overriding Considerations below.

Impact. D.8. The project would include construction activities within the San Joaquin River channel and on nearby levees and would include placement of a permanent structure in the San Joaquin River channel. These activities could affect river flow patterns and degrade water quality.

a) **Potential Impact.** The water quality and hydrology impact identified above is described and discussed on page IV.D.41 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.8 (p. IV.D.41 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that Implementation of Mitigation Measure D.8 will substantially lessen or avoid the impact identified above by requiring that all instream excavation and construction activities be conducted during low flow conditions in the river and that work within the wetted channel be avoided, by requiring compliance with applicable State and Federal regulatory requirements, and by directing that the design of the new outfall pipeline and diffuser minimize interference with water flow and water quality.

Chapter IV.E. BIOLOGICAL RESOURCES

Impact E.1. Construction of project facilities along the Tuolumne River adjacent to the Primary Plant, or in other riparian areas, could damage the habitat of the valley elderberry longhorn beetle.

a) **Potential Impact.** The biological resources impact identified above is described and discussed on page IV.E.25 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures E.1.1 and E.1.2a through E.1.2c (pp. IV.E.25 through IV.E.28 of the DEIR, as amended in the FEIR in response to Comment A-1).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure E.1.1 requires that the project area and surrounding area be surveyed and mapped by a qualified biologist for the presence of the valley elderberry longhorn beetle and its elderberry host species plant. In the event that elderberry plants are discovered, Mitigation Measures E.1.2a through E.1.2c establish protocols for the City and its contractors to follow to ensure that the mitigation measure above is mitigated to a less than significant level. Specifically, these measures call for consultation and coordination with the US Fish and Wildlife Service and Army Corps of Engineers, implementation of avoidance mitigations where possible and transplantation of elderberry plants if necessary for the project.

Taken together, implementation of these mitigation measures will substantially lessen or avoid the biological resources impact identified above.

Impact E.2. Construction of project facilities could cause loss of occupied Burrowing Owl habitat.

a) **Potential Impact.** The biological resources impact identified above is described and discussed on pages IV.E.28 through IV.E.29 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures E.2.1 and E.2.2 (pp. IV.E.29 and IV.E.30 of the DEIR, as amended in the FEIR in response to Comment A-1).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure E.2.1 requires completion of a pre-construction survey for Burrowing Owls in accordance with State and Federal regulations and establishes protocols to ensure that if breeding or resident owls are discovered, the City and its contractors act to protect their habitat from disruption during the nesting season. In the event that avoiding construction in occupied areas is not feasible. Mitigation Measure E.2.2 establishes standards for mitigation through the acquisition and preservation of offsite habitat. Together, implementation of these mitigation measures will substantially lessen or avoid the biological resources impact identified above.

Impact E.3. Construction of project facilities could cause disturbance of nesting raptors.

a) **Potential Impact.** The biological resources impact identified above is described and discussed on page IV.E.30 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures E.3.1 and E.3.2 (pp. IV.E.30 and IV.E.31 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measures E.3.1 and E.3.2 will substantially lessen or avoid the biological resources impact identified above by ensuring that to the extent

practicable, construction shall be scheduled to avoid the nesting season, and where such avoidance mitigation is not feasible, pre-construction surveys for nesting raptors shall be conducted to ensure that no active raptor nest is disturbed by construction activities.

Impact E.4. Construction of the project facilities could cause impacts to biological resources and regulated habitats of Dry Creek (Beard Brook) and of the Tuolumne River.

a) **Potential Impact.** The biological resources impact identified above is described and discussed on page IV.E.31 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures E.4.1 and E.4.2 (pp. IV.E.31 and IV.E.32 of the DEIR, as amended in the FEIR in response to Comment A-1).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure E.4.1 requires that pre-construction surveys be conducted prior to project-related activities that would impact the resources of Dry Creek or the Tuolumne River. If such surveys identify potentially significant impacts, the measure requires that the City consult with State and Federal regulatory agencies to ensure that appropriate protocols are followed to mitigate any such impacts. Mitigation Measure E.4.2 additionally requires the City to implement standard avoidance and minimization mitigations in consultation with relevant regulatory agencies in the event that special-status species are identified in the project area. Implementation of Mitigation Measures E.4.1 and E.4.2 will substantially lessen or avoid the biological resources impact identified above by ensuring that the City implement standard protocols for avoiding impacts to special-status species and their habitat.

Impact E.5. Construction of project facilities or development facilitated by construction of project facilities could cause loss of Swainson's Hawk foraging habitat.

a) **Potential Impact.** The biological resources impact identified above is described and discussed on page IV.E.32 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure E.5 (pp. IV.E.31 and IV.E.32 of the DEIR, as amended in the FEIR in response to Comment A-1).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: In the event that project facilities are constructed on lands identified as potential foraging habitat for Swainson's Hawks, implementation of Mitigation Measure E.5 will substantially lessen or avoid such impacts by requiring that the City offset such loss of habitat by providing offsite "Habitat Management" lands as provided in California Department of Fish and Game ("CDFG") standard protocols.

Impact E.6. Construction during the Swainson's Hawk breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment.

a) **Potential Impact.** The biological resources impact identified above is described and discussed on page IV.E.33 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure E.6a and E.6b (pp. IV.E.33 and IV.E.34 of the DEIR, as amended in the FEIR in response to Comment A-1).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measures E.6a and E.6b will substantially lessen or avoid the biological resources impact identified above by requiring that: (1) a qualified ornithologist conduct pre-construction surveys at the Jennings Plant site, in developing areas where collection system extensions are being constructed and within one-mile of previously undeveloped properties that could have trees with active nests; (2) if a nest site is found, the City consult with CDFG to ensure that the project will not result in nest disturbance; and (3) if it is not feasible to avoid active nest sites, that they be removed in accordance with standard protocols to ensure that any impacts of such removal are mitigated.

Impact E.7. Construction of improvements to the Secondary Plant may cause impacts to regulated habitats.

a) **Potential Impact.** The biological resources impact identified above is described and discussed on page IV.E.34 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby

adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure E.7 (pp. IV.E.34 and IV.E.35 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure E.7, which requires prior consultation with the USACE and/or CDFG if project facilities are to be constructed on or adjacent to wetland areas or other areas potentially under these agencies' regulatory jurisdiction, will substantially lessen or avoid the biological resources impact identified above, because those agencies will require adequate measures to offset impacts to riparian and aquatic resources.

Impact E.8. Microtunneling could cause impacts to riparian habitats under the jurisdiction of the California Department of Fish and Game and/or the U.S. Army Corps of Engineers.

a) **Potential Impact.** The biological resources impact identified above is described and discussed on page IV.E.35 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure E.8 (p. IV.E.35 of the DEIR, as amended in the FEIR in response to Comment A-1).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure E.8 will substantially lessen or avoid the biological resources impact identified above by requiring that prior to initiating microtunneling in a riparian area, a survey shall be conducted to determine whether special status species or habitat are present on or immediately adjacent to the construction area; the identification of such species or habitat will trigger consultation and coordination with CDFG and USACE, which will require appropriate avoidance steps or detailed mitigation measures before construction can proceed.

Impact E.11. Growth facilitated by the project would result in cumulative loss of Swainson's Hawk and Burrowing Owl habitat.

a) **Potential Impact.** The biological resources impact identified above is described and discussed on page IV.E.37 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

Mitigation Measures E.2, E.5 and E.6 (pp. IV.E.29 and IV.E.30, IV.E.31 and IV.E.32, and IV.E.33 and IV.E.34 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measures E.2, E.5 and E.6, as more fully discussed above, will substantially lessen or avoid the Project's impacts to Swainson's Hawk and Burrowing Owl habitat, and in so doing, will substantially lessen or avoid the Project's contribution to the cumulative impact identified above.

Chapter IV.F. Transportation

Impact F.1. The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable traffic impacts identified in the Urban Area General Plan.

a) **Potential Impact.** The transportation impacts identified above are described and discussed on pages IV.F.12 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure F.1 (p. IV.F.12 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure F.1 incorporates by reference the mitigation measures related to traffic from the EIR for the City's Urban Area General Plan Update adopted in 2003. Nonetheless, implementation of the Wastewater Master Plan will remove an obstacle to further growth in Modesto and the wastewater service area, and as further discussed in the DEIR (p. IV.F.12), it is not feasible to fully mitigate the cumulatively considerable traffic impacts identified above.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate these significant impacts, they are considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the impact identified above, as set forth in the Statement of Overriding Considerations below.

Chapter IV.G. Air Quality

Impact G.1. Emissions of criteria pollutants during construction of wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The air quality impact identified above is described and discussed on pages IV.G.16 and IV.G.17 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure G.1 (pp. IV.G.17 and IV.G.18 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure G.1 requires implementation of a set of mitigation measures developed by the San Joaquin Valley Air Pollution Control District ("SJVAPCD") to mitigate the air quality impacts of construction activities. Implementation of these measures will reduce but not eliminate the emissions of construction-related PM_{10} and ozone precursors. Because such increases in emissions cannot be avoided entirely, and because City standards treat any net increase as a significant impact, it is not feasible to fully mitigate the air quality impact identified above.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the impact identified above, as set forth in the Statement of Overriding Considerations below.

Impact G.2. Emissions of criteria pollutants during operation of the proposed wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The air quality impact identified above is described and discussed on pages IV.G.19 through IV.G.24 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure G.2 (pp. IV.G.24 and IV.G.25 of the DEIR, as amended in the FEIR in response to Comment D-1).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure G.2 requires the City to abide by permit limits and other requirements imposed by the SJVAPCD to reduce pollutant emissions from diesel-powered engines for emergency power generation and any other sources. Implementation of this mitigation measure will reduce but not eliminate the emissions of criteria pollutants during operation of the wastewater system improvements. Because such increases in emissions cannot be avoided entirely, and because City standards treat any net increase as a significant impact, it is not feasible to fully mitigate the air quality impact identified above.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the impact identified above, as set forth in the Statement of Overriding Considerations below.

Impact G.5. The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable air quality impacts identified in the Urban Area General Plan.

a) **Potential Impact.** The air quality impacts identified above are described and discussed on page IV.G.27 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure G.5 (pp. IV.G.27 and IV.G.28 of the DEIR, as amended in the FEIR pursuant to a staff-initiated text correction).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure G.5 incorporates by reference the mitigation measures related to traffic and energy use (and related to carbon monoxide and particulate matter in particular) from the City's 2003 Urban Area General Plan Final MEIR. However, even with implementation of such measures, the City Council found that the 2003 General Plan would result in significant and unavoidable impacts to air quality. Similarly here, although implementation of the mitigation measures identified in the earlier MEIR will reduce the cumulatively considerable air quality impacts identified above, it is not feasible to fully mitigate such impacts.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate these significant cumulative impacts, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the impact identified above, as set forth in the Statement of Overriding Considerations below.

Impact G.6. The wastewater treatment facilities would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment.

a) **Potential Impact.** The air quality impact identified above is described and discussed on page IV.G.28 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program:

FEIR Mitigation Measure G.6 (p. IV.G.28 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure G.6 incorporates by reference Mitigation Measures G.1 and G.2. Mitigation Measure G.1 requires implementation of a set of mitigation measures developed by the San Joaquin Valley Air Pollution Control District ("SJVAPCD") to mitigate the air quality impacts of construction activities. Mitigation Measure G.2 requires the City to abide by permit limits and other requirements imposed by the SJVAPCD to reduce pollutant emissions from diesel-powered engines for emergency power generation and any other sources. Implementation of these measures will reduce but not eliminate the emissions of PM_{10} and ozone precursors during construction and other criteria pollutants during operation of the improvements. Because such increases in emissions cannot be avoided entirely, and because City standards treat any net increase as a significant impact, it is not feasible to fully mitigate the air quality impact identified above.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the impact identified above, as set forth in the Statement of Overriding Considerations below.

Chapter IV.H. Noise

Impact H.1. Construction of the proposed project facilities could cause substantial, though intermittent and short-term, increases in noise levels, which would add to noise levels predicted by the City's *General Plan MEIR* and the County General Plan.

a) **Potential Impact.** The noise impact identified above is described and discussed on pages IV.H.9 and IV.H.10 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure H.1 (p. IV.H.11 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure H.1 will substantially lessen or avoid the noise impact identified above by requiring that City contractors implement a set of best practices to ensure the protection of sensitive receptors from excessive construction noise. These best practices include limiting construction activities to daytime, ensuring that construction equipment and vehicles be equipped with properly operating mufflers, and requiring that stationary noise sources, construction staging areas, and construction vehicle routes be located to minimize their impact on sensitive land uses.

Impact H.4. The proposed project would support cumulative development that could increase noise levels in areas where noise levels exceed, or would exceed, the noise and land use compatibility guidelines adopted by the City of Modesto and Stanislaus County, or the noise performance standards set by the City and County.

a) **Potential Impact.** The noise impacts identified above is described and discussed on pages IV.H.12 and IV.H.13 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

There are no feasible measures to further mitigate the noise impact identified above.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** It is not feasible to further mitigate the impact identified above.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the impact identified above, as set forth in the Statement of Overriding Considerations below.

Chapter IV.K. Public Health and Safety: Contaminated Soils and Demolition

Impact K.1. Excavation for installation of wastewater system improvements could encounter contaminated soil and/or groundwater and expose workers and the public to hazardous substances.

a) **Potential Impact.** The public health and safety impact identified above is described and discussed on pages IV.K.9 through IV.K.13 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure K.1a through K.1f (pp. IV.K.11 through IV.K13 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measures K.1a through K.1f establish a set of protocols to ensure that the impact identified above is substantially lessened or avoided. Mitigation Measure K.1a requires the City to use reasonable means (e.g., soil gas surveys, soil or groundwater sampling, and/or a Phase I Environmental Assessment) to determine the presence of soil or groundwater contamination prior to initiation of activities involving soil disturbance. If the presence of such contamination is detected, Mitigation Measure K.1b requires preparation of a Soil and/or Groundwater Investigation in accordance with state and local guidelines and regulations to assess the presence and extent of contamination and potential risk to human health and public safety. If the Soil and/or Groundwater Investigation indicates that a Site Remediation Plan is appropriate, Mitigation Measure K.1c requires its preparation and requires that groundbreaking activities in the areas of potential hazard not proceed until the Site Remediation Plan has been reviewed and approved by the County and is on file with the City. Mitigation Measure K.1d requires preparation of a project-specific Health and Safety Plan (detailing provisions for worker health and safety, monitoring, training for workers, identification of protective equipment and emergency response procedures and designating personnel responsible for Plan implementation) prior to any site work on a contaminated site or a site suspected to be contaminated. Mitigation Measure K.1e requires preparation of a Waste Disposal and Hazardous Materials Transportation Plan (including a description of analytical methods for characterizing wastes, handling methods required to minimize the potential for exposure, and protocols for safe storage, transport and disposal of contaminated materials) prior to construction activities where

hazardous wastes or materials requiring off-site disposal would be generated. Mitigation Measure K.1f establishes procedures for construction personnel to follow in the event that previously unidentified contamination is encountered during construction. Implementation of these mitigation measures will substantially lessen or avoid the public health and safety impact identified above by ensuring adequate planning and an appropriate response to the risks of hazardous exposure.

Impact K.2. Pipe bursting methods could release potentially hazardous material contaminants into soil and groundwater, causing health effects to construction workers and the public, and environmental degradation.

a) **Potential Impact.** The public health and safety impact identified above is described and discussed on page IV.K.14 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure K.2 (p. IV.K.14 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure K.2 will substantially lessen or avoid the impact identified above by requiring that the contractor submit for City review a procedure to ensure that pipes are emptied of their contents and providing for the safe disposal of such contents prior to commencing pipe bursting activities.

Impact K.3. Construction activities involving demolition or modification of structures may result in the exposure of construction workers and the general public to added health risk.

a) **Potential Impact.** The public health and safety impact identified above is described and discussed on pages IV.K.14 through IV.K.15 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure K.3 (p. IV.K.15 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure K.3 requires that a

qualified environmental professional perform a lead-based paint and asbestos-containing survey as a condition of approval for any demolition permit for a structure or facility potentially containing lead or asbestos and for any major modification to structures built before 1980. Mitigation Measure K.3 further provides that all loose and peeling lead-based paint and identified asbestos hazards be abated in accordance with local, state, and federal requirements and that other hazardous materials and wastes generated during demolition or renovation activities be managed and disposed of in accordance with applicable regulations. Implementation of this mitigation measure will substantially lessen or avoid the impact identified above by ensuring that potentially hazardous materials are identified prior to commencement of demolition or renovation activities and by ensuring that such materials are abated in accordance with standard protocols.

IV. Findings Regarding Project Alternatives.

A. Identification of Project Objectives.

The CEQA Guidelines state that the "range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects" of the Project. CEQA Guidelines § 15126(d)(2). Thus, an evaluation of the Project objectives is key to determining which alternatives should be assessed in the EIR.

The DEIR lists fifteen specific objectives for the Project (pages III.2 and III.3):

For the Project as a whole:

1. Implement the City's economic goals and Urban Area General Plan by planning for, and providing, sewer infrastructure in a timely and cost-effective manner to serve new and existing development.

2. Continue the City's policy of providing affordable and attractive wastewater rates.

3. Repair and replace aging wastewater infrastructure.

4. Ensure adequate wastewater infrastructure and services are available to serve new growth within the City's Sphere of Influence.

5. Provide an adequate funding mechanism to pay for necessary improvements.

6. Require new development to pay for infrastructure necessary to serve it.

7. Plan for state-of-the-art facilities that reliably and economically meet the changing regulatory requirements.

For the collection system improvements:

8. To increase sewer capacity to convey peak wet weather flows for a 10-year storm event, and, where required, to serve future customers.

9. To reduce wet weather flow volumes by removing cross connections with stormwater sewers.

10. To extend service to new customers.

11. To replace, repair, or rehabilitate existing trunk sewers (by lining or coating the interior walls), and to reduce infiltration and inflow of stormwater into the sanitary sewers.

12. To improve sewer collection reliability by providing new and redundant infrastructure improvements, including sewer trunk lines and lift stations, in known deficient areas at critical areas within the existing system.

For the treatment plant improvements:

13. To increase capacity at the primary treatment plant to convey peak wet weather flows.

14. To increase the capacity of the outfall connecting the primary and secondary treatment plants, and to provide increased reliability for the existing outfall.

15. To increase effluent disposal capacity by upgrading from secondary treatment to tertiary treatment, and enabling the City to dispose of treated effluent to the San Joaquin River year-round.

B. Alternatives Analyzed in the FEIR.

The CEQA Guidelines state that the "range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects of the Project. The City evaluated the alternatives listed below.

1. Alternative A: No Project Alternative.

a. Findings. Alternative A is described on pages VI.2 through VI.5 of the DEIR. This alternative is rejected, because it would not feasibly achieve the objectives of the Project.

b. Explanation. Although the No Project Alternative would avoid the Project's significant impacts, it would not further the City's Project Objectives to provide for much needed repair and replacement of aging wastewater infrastructure, provide an adequate funding mechanism to pay for the infrastructure necessary to serve the City, address changing regulatory requirements or address issues related to peak wet weather flow conditions. In addition, Alternative A would not further growth planning policies established in its General Plan. Indeed, it would achieve none of the Project objectives identified above.

2. Alternative B: Alternate Location for Phase 1A Tertiary Facilities.

a. Findings. Alternative B is described on pages VI.5 through VI.7 of the DEIR. Under Alternative B, rather than locate the Phase 1A tertiary facilities at the Secondary Plant, south of the chlorination channel on agricultural land, the City would build the Phase 1A tertiary facilities north of the chlorination channel. This alternative is accepted as a feasible alternative because it would avoid any significant and unavoidable agricultural impacts while feasibly achieving the Project objectives.

b. Explanation. As set forth in the DEIR, Alternative B would result in impacts which are almost identical to those of the proposed Project. Because the Phase IA tertiary treatment facilities would still be constructed at the Secondary Plant, in close proximity to the location identified in the proposed Project, Alternative B would feasibly achieve the Project objectives. By moving the Phase IA tertiary treatment facilities as identified in Alternative B, the significant and unavoidable impacts on agricultural resources would be eliminated.

3. **Alternative C: Reduced Size Alternative for Tertiary Treatment.**

a. Findings. Alternative C is described on pages VI.7 through VI.12 of the DEIR. Under Alternative C, rather than build tertiary treatment capacity sufficient to accommodate both the existing population and population growth, the City would build only enough tertiary treatment capacity to serve the existing population. This alternative is rejected, because it would not feasibly achieve the objectives of the Project.

b. Explanation. Although Alternative C would avoid Project impacts related to population growth, and is identified in the DEIR as the Environmentally Superior Alternative, it would not further the City's economic goals or General Plan policies related to growth, nor would it meet the other Project objectives of ensuring adequate wastewater infrastructure and services to serve new growth in the City's Sphere of Influence, extending service to new customers, or increasing effluent disposal capacity by upgrading from secondary treatment to tertiary treatment, and enabling the City to dispose of treated effluent to the San Joaquin River year-round.

4. **Alternative D: Build Certain Primary Treatment Facilities at the Secondary Plant.**

a. Findings. Alternative D is described on pages VI.12 through VI.18 of the DEIR. Under Alternative D, the City would address the flood risk at the Primary Plant by moving some of the primary treatment facilities to the Secondary Plant. The existing Primary Plant site would still retain the headworks, pump stations, and portions of the outfall pipelines to convey the wastewater flow to the Secondary Plant. This alternative is rejected, because it would result in an increase in significant and unavoidable impacts and would not feasibly achieve the objectives of the Project.

b. Explanation. Although Alternative D would avoid Project water quality and hydrology impacts related to flooding, it would result in new significant and unavoidable impacts related to the direct loss of Prime Farmland at the Secondary Plant and air quality impacts due to increased construction activity. As noted in the proposed Wastewater

Master Plan and related Engineer's Report, the engineer's estimate for constructing Alternative D is approximately $113M, more than twice the estimated cost of the proposed Project. This alternative would not further the Project objectives of providing affordable and attractive wastewater rates, economically meeting changing regulatory requirements or ensuring adequate funding to ensure the Project objectives will be feasibly attained.

5. Alternative E: Build Flood Protection Levee at Primary Plant.

a. Findings. Alternative E is described on pages VI.18 through VI.25 of the DEIR. Under Alternative E, the City would address the flood risk at the Primary Plant by constructing a flood protection levee around the entire Primary Plant. This alternative is rejected, because it would not feasibly achieve the Project's objectives.

b. Explanation. Although Alternative E would address the risk of flooding at the primary treatment facilities, it would significantly alter drainage patterns and increase offsite flooding hazards along the Tuolumne River. Additional floodplain studies would be needed to determine the possible upstream and downstream impacts of the levee. Without these potentially substantial studies, including an evaluation of the potential mitigation measures necessary to address these impacts and any secondary impacts created thereby, this alternative is not feasible. In addition, Alternative E could have greater impacts than the Project in other areas, including parks and recreation impacts and visual impacts. Indeed, the FEIR's analysis of this alternative concludes that its potential flooding impacts would be greater than the Project's. Moreover, due to the unknown and potentially significant costs associated with mitigation of offsite flooding impacts, Alternative E would not meet the Project objectives of providing affordable and attractive wastewater rates, economically meeting changing regulatory requirements or ensuring adequate funding to ensure the Project objectives will be feasibly attained. .

V. Statement of Overriding Considerations.

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093, this City Council adopts and makes the following Statement of Overriding Considerations regarding the remaining significant unavoidable impacts of the Project, as discussed above, and the anticipated economic, legal, social and other benefits of the Project.

The City finds and determines that: (i) the majority of the significant impacts of the Project will be substantially lessened or avoided by the mitigation measures required by these Findings; (ii) the City's approval of the Project as proposed will result in certain significant adverse environmental effects that cannot be avoided even with the

incorporation of all feasible mitigation measures into the Project; and (iii) there are no other feasible mitigation measures or other feasible Project alternatives that would further mitigate or avoid the remaining significant environmental effects. The significant effects that have not been mitigated to a less-than-significant level and are therefore considered significant and unavoidable are:

- B.3 – Agricultural Resources – Construction of the proposed project components within the Planned Urbanizing Area would result in the cumulative loss of Prime Farmland.

- D.3 – Water Quality and Hydrology – Implementation of the proposed project at a rate that does not match projected growth may result in an incremental increase in operation-period surface water quality degradation due to the deficient effluent disposal system.

- D.4 – Water Quality and Hydrology – Implementation of the proposed project may result in operation-period surface water quality degradation due to pollutant loading associated with treated water discharges.

- D.5 – Water Quality and Hydrology – Implementation of the proposed project may result in operation-period surface water quality degradation during daily operations and/or during flooding of the Primary Plant and sludge drying area.

- F.5 – Transportation – The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable traffic impacts identified in the Urban Area General Plan.

- G.1 – Air Quality – Emissions of criteria pollutants during construction of wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

- G.2 – Air Quality – Emissions of criteria pollutants during operation of the proposed wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

- G.5 – Air Quality – The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable air quality impacts identified in the Urban Area General Plan.

- G.6 – Air Quality – The wastewater treatment facilities would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment.

- H.4 – Noise – The proposed project would support cumulative development that could increase noise levels in areas where noise levels exceed, or would exceed, the noise and land use compatibility guidelines

adopted by the City of Modesto and Stanislaus County, or the noise performance standards set by the City and County.

The following statement identifies the reasons why, in the City's judgment, the benefits of the Project outweigh the significant and unavoidable effects. The substantial evidence supporting the enumerated benefits of the Project can be found in the record of proceedings as described in Section II.A. Each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental effects and is an overriding consideration warranting approval.

The City finds that the Project would have the following economic, legal, social, technological, and environmental benefits:

1. **Wastewater Collection and Treatment Needs.** The City has grown rapidly and faces a number of challenges regarding its current wastewater collection and treatment facilities. Its 1980 population of 106,600 grew to 206,200 in 2004, putting pressure on an aging sewer system. The City currently lacks sufficient hydraulic capacity at the Primary Plant and has limited disposal options for the Secondary Plant's effluent. Portions of the system do not have capacity to convey peak wet weather flows, potentially causing wastewater surcharges or overflows. Portions of the City's collection system are very old and in significant need of repair and rehabilitation. In addition, portions of the collection system are undersized even for infill development. The Project will allow the City to more efficiently meet its wastewater collection and treatment needs, assuring water quality and addressing flooding and public health and safety concerns.

2. **Environmental Benefits of Tertiary Treatment.** The Project will significantly improve the quality of the City's treated wastewater effluent by upgrading to tertiary treatment and ensuring the City's ability to meet changing regulatory requirements. This upgrade will improve water quality.

3. **Growth Consistent With General Plan.** The City's General Plan provides a framework for the City's growth but has identified the City's wastewater treatment facilities as a potential constraint on desired growth. By removing this constraint, the Project will allow development consistent with the City's General Plan.

4. **Liability.** Without improvements to its wastewater infrastructure, the City runs the risk of violating existing State and Federal discharge requirements. Furthermore, the City anticipates that its discharge permitting conditions may become more stringent in the future, as they have become more stringent for other cities in the San Joaquin Valley. The Project will allow the City to meet its current and future discharge obligations and avoid liability for illegal discharges.

MODESTO WASTEWATER MASTER PLAN UPDATE EIR
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

AGRICULTURAL RESOURCES: Mitigation Measures	Responsibility	Action(s)	Timing
B.2. Compensation for loss of farmland The loss of Prime Farmland on the Secondary Plant and Ranch site directly resulting from the proposed project could be partially mitigated through the creation of a farmland conservation easement at an alternate location on the City Ranch or other City of Modesto property. The City could also partially mitigate the loss of Prime Farmland on the project site through contribution to the Farmland Conservancy Fund, or to an equivalent program for funding farmland preservation in Stanislaus County. The mitigation would conserve one acre of farmland for each acre developed. Contribution to the California Farmland Conservancy fund, or an equivalent program, to fund farmland preservation projects in Stanislaus County would serve to compensate for the loss of Prime Farmland directly resulting from the proposed project. However, preservation of Prime Farmland through agricultural easements on other Prime Farmland parcels would not mitigate the direct loss of Prime Farmland resulting from the proposed project to a less-than-significant level.	Public Works Department	Create farmland conservation easement, contribute to Farmland Conservancy Fund, or contribute to an equivalent fund to preserve existing prime farmland in Stanislaus County.	Prior to grading at the Secondary Plant and Ranch.
B.3. Each development project's contribution to the cumulative loss of farmland in Stanislaus County could be partially mitigated through contribution to the Farmland Conservancy Fund or an equivalent farmland preservation program, as a condition precedent to the issuance of building permits for projects within the City's Planned Urbanizing Area. Preservation of Prime Farmland through agricultural easements on other Prime Farmland parcels would not mitigate the cumulative loss of Prime Farmland resulting from the proposed project to a less-than-significant level.	Community & Economic Development Dept.	Implement mitigation measures for loss of agricultural land as identified in the 2003 Urban Area General Plan Master EIR by imposing as conditions of approval for development projects	As part of approval of each development project warranting mitigation under the 2003 Urban Area General Plan.

WATER QUALITY AND HYDROLOGY: Mitigation Measures	Responsibility	Action(s)	Timing
D.1. The City shall prepare a SWPPP designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the project disturbs more than one acre). The SWPPP shall emphasize measures designed to minimize erosion and off-site sedimentation during improvements to the collection system and installation of the new outfall.	Public Works Department and Construction Contractor Representative	Prepare SWPPP or require construction contractor to prepare SWPPP; implement SWPPP	SWPPP shall be prepared prior to excavation or grading of any Wastewater Master Plan project and shall be implemented during grading and construction
It is not required that the SWPPP be submitted to the RWQCB, but must be maintained on-site and made available to RWQCB staff upon request. The SWPPP shall include: • Specific and detailed BMPs designed to mitigate construction-related pollutants. At a minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed, centralized storage areas that keep these materials out of the rain. • To educate on-site personnel and maintain awareness of the importance of stormwater quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP. • A monitoring program that would be implemented by the construction site supervisor which will include both dry and wet weather inspections. In addition, in accordance with State Water Resources Control Board Resolution No. 2001-046, monitoring would be required during the construction period for pollutants that may be present in the runoff that are "not visually detectable in runoff." • BMPs designed to reduce erosion of exposed soil may include, but are not limited to soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. Efforts should be made to keep the length of open trench and stockpile volumes to a minimum. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If	Construction Contractor Representative	Maintain copy of SWPPP on construction site and implement SWPPP	Throughout all phases of construction for each project

WATER QUALITY AND HYDROLOGY: Mitigation Measures	Responsibility	Action(s)	Timing
grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control, that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Entry and egress from the excavation area shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.			
• A drainage plan shall be prepared for the proposed sludge drying area at the Secondary Plant which specifies that the working surface will be lined with a cement-soil or concrete (to minimize infiltration) and runoff from all portions of the sludge drying area will be contained and treated prior to discharge. Treatment can occur in an appropriately designed detention basin or by filtration. The drainage plan shall consider reuse of stormwater for dust control. The drainage plan shall be reviewed and approved by the Department of Public Works prior to commencement of operations.	Public Works Department and Construction Contractor Representative	Prepare site drainage plan or require construction contractor to prepare plan; Implement plan	Plan shall be prepared prior to grading of sludge drying area and shall be implemented during grading and construction
• A monitoring and contingency plan for microtunneling that specifies how the likelihood of frac-out [tunnel collapse or the rupture of drilling mud to the surface, EIR p. IV.D.27] would be reduced and response actions should frac-out occur. The risk of frac-outs can be reduced through proper design, careful monitoring, and having appropriate equipment and response plans ready in the event of a frac-out. The monitoring and contingency plan shall specify that: • On-site briefings be conducted for the workers to identify and locate sensitive resources at the site. • All field personnel be fully briefed and understand their responsibility for timely reporting of frac-outs. • When excavating around existing rock wells, the inlet to the rock well will be sealed during the excavation activity so that sediment and pollutants cannot be discharged into the rock well in runoff or wash water. • Response equipment be maintained on-site or at a readily accessible location and in good working order.	Public Works Department and Construction Contractor Representative	Prepare monitoring and contingency plan for micro-tunneling or require construction contractor to prepare plan; Implement plan.	Plan shall be prepared prior to commencement of micro-tunneling under a riparian area or other identified wetland, and shall be implemented during micro-tunneling
Should a frac-out occur, the plan should specify that: • A qualified biologist would be retained to evaluate the potential for impacts to biotic resources and specify response actions, as appropriate.	Public Works Department and Construction	Prepare frac-out contingency plan for micro-tunneling or require construction	Plan shall be prepared prior to commencement of micro-tunneling in riparian and identified wetland

WATER QUALITY AND HYDROLOGY: Mitigation Measures	Responsibility	Action(s)	Timing
• All work stops, including the recycling of drilling mud/lubricant. • The location and extent of the frac-out is quickly determined. • If the frac-out occurs on land that the drilling mud is removed, the area reseeded and/or replanted using species similar to those in the adjacent area. • If the frac-out occurs underwater, the frac-out should be monitored for 4 hours to determine if the drilling mud congeals. (the bentonite clay typically used as a drilling mud will usually harden, effectively sealing the frac-out location). • If drilling mud does not congeal, erect isolation/containment environment (underwater boom and curtain). • If the fracture becomes excessively large, a spill response team be called in to contain and clean up excess drilling mud in the water. Phone numbers of spill response teams in the area should be maintained on site. • In any case, if a frac-out occurs, consultation with the appropriate regulatory agencies should occur promptly. The drilling and response plan shall be reviewed and approved by the City of Modesto Department of Public Works prior to implementation of the drilling activities.	Contractor Representative Public Works Department	contractor to prepare plan; Implement plan Review monitoring plan for drilling.	areas and shall be implemented during micro-tunneling. Prior to commencement of each micro-tunneling project .
D.2. Each proposed cross-connection elimination project shall be carefully designed to ensure that existing flooding problems are not exacerbated. If the proposed solution (either temporary or permanent) is not fully compliant with the City standards for stormwater conveyance, then it shall be demonstrated through detailed hydraulic analysis that the proposed solution does not make existing flooding problems worse. The designers of the new stormwater conveyance and treatment structures should consider a wide range of solutions when designing the temporary and permanent solutions, including: 1) positive connections to existing trunk lines, 2) construction of new trunk lines and laterals, 3) detention and retention basins, 4) rock wells, 5) onsite improvements to reduce discharge flows, and 6) positive connections to MID laterals. Each proposed cross-connection elimination design shall be reviewed for compliance with this performance standard by the City Public Works Department prior to approval of the project. In the event the City considers	Public Works Department	Prepare or review designs of stormwater cross-connection elimination project; determine compliance with City standards for storm water conveyance.	Prior to issuance of each construction contract.

WATER QUALITY AND HYDROLOGY: Mitigation Measures	Responsibility	Action(s)	Timing
elimination of a cross-connection by connecting to an MID lateral, the City will consult with MID at the earliest possible stage in the process.			
D.3 The City should continue to investigate the feasibility of near-term solutions: 1) additional land application of effluent, 2) expansion of storage capacity, and 3) conservation measures. However, under the existing conditions and with the project as proposed, the deficient effluent disposal system could result in significant water quality impacts and no feasible mitigation has currently been identified that could be implemented promptly. This impact is significant and unavoidable.	Public Works Department	If the Wastewater Master Plan is not implemented as proposed, investigate feasibility of other methods of effluent disposal.	Upon a determination that the Wastewater Master Plan will not be implemented as proposed
D.4. To mitigate the potential impacts to San Joaquin River water quality associated with the expansion of treated wastewater capacity, the City shall conduct an anti-degradation study as set forth above. The study shall be conducted in accordance with all applicable State and Federal anti-degradation policy standards. The City shall implement all feasible and necessary mitigation measures. Based on current RWQCB requirements, it is likely that the implementation of this mitigation measure will reduce operation-period surface water quality degradation due to pollutant loading associated with treated wastewater discharges to a less-than-significant level. The anti-degradation study is a requirement of NPDES permit renewals when additional river discharge capacity is requested and will be defined based on the permit provisions. However, because several permit renewal cycles will occur over the course of the project horizon, the City cannot determine the future requirements at this time and therefore cannot assure that the potential impacts will be fully mitigated. In addition, it is possible that State and Federal anti-degradation policies may change over time to a point where the potential impacts associated with a Project phase can no longer be fully mitigated.	Public Works Department	Conduct anti-degradation study and implement all feasible and necessary mitigation measures as directed by the RWQCB.	The study shall be conducted prior to issuance of an NPDES permit for tertiary treatment and shall be implemented prior to or concurrent with construction
D.5. **D.5(a).** To mitigate the potential impacts to local flooding conditions associated with placement of fill and construction of the flood walls proposed by the project, the City shall retain a qualified registered civil engineer or licensed architect to conduct the appropriate floodplain studies to determine whether the proposed	Public Works Department	Retain qualified registered civil engineer to conduct floodplain studies.	Prior to completion of final design documents and commencement of construction.

WATER QUALITY AND HYDROLOGY: Mitigation Measures	Responsibility	Action(s)	Timing
floodplain encroachments could be constructed without increasing base flood elevations upstream or downstream of the Primary Plant. If floodplain modeling indicates that the encroachments could be constructed without impacts to the base flood elevations, the City will work with FEMA and the Reclamation Board to ensure that the design is appropriate and all necessary permits are acquired prior to construction. If the floodplain studies indicate that base flood elevations would increase due to construction of the flood wall and levee system, then other appropriate channel modifications (e.g. expansion of the floodway to the south) shall be considered to offset the increases. If no feasible options are available to offset modeled increases in base flood elevations, then the proposed fill placement and flood walls will not be constructed. If the flood wall and levee system is not constructed, the impact to water quality (described under Impact D.5) would be significant and unavoidable.		If determined feasible, work with FEMA, Reclamation Board, and other agencies as necessary to secure appropriate permits and abide by all permit conditions, or pursue alternative design.	
D.8 To the extent feasible, all instream excavation and construction activities shall be conducted during low flow conditions in the river and work within the wetted channel will be avoided. As specified in the Biology section of this DEIR, the project sponsor will acquire all necessary permits from the US Army Corps of Engineers and California Department of Fish and Game (the provisions of these permits will include measures to protect water quality). In addition, the design of the new outfall and diffuser shall avoid, to the extent feasible, permanent features that extend above the active streambed that could cause flow disruption and scour.	Public Works Department	Acquire all necessary permits from the US Army Corps and the California Dept of Fish & Game, and abide by all permit conditions.	Obtain permits prior to commencement of construction; Comply with all permit conditions during construction.

BIOLOGICAL RESOURCES: Mitigation Measures	Responsibility	Action(s)	Timing
E.1.1. Pre-Construction Surveys: The project area and immediately adjacent area shall be surveyed and mapped by a qualified biologist for the presence of the valley elderberry longhorn beetle and its elderberry host species plant. Mitigation is not required for plants with no stems measuring 1.0 inch (2.5 cm) or greater in diameter at ground level and surveys are valid for a period of two years. If plants larger than these are identified in the survey, Measures E.1.2a through E.1.2c shall be implemented.	Public Works Department and Project Biologist	Retain a qualified biologist and conduct pre-construction surveys for construction projects located along Tuolumne River or other riparian areas.	Conduct surveys prior to issuance of any construction contract.
E.1.2a. ***Agency Coordination and Consultation:*** Implementation of some features of the Wastewater Master Plan Update may impact USACE jurisdictional habitat. Therefore, construction along the banks of the Tuolumne River or other riparian areas where the appropriately-sized elderberry habitat is found would require USACE approval and necessary permits. Furthermore, these locations may fall within the jurisdiction of the Sacramento Field Office of USFWS. Finally, if any of the construction projects implementing the Wastewater Master Plan Update meet all four of the above criteria, they may be appended to the programmatic document. However, early consultation with the USACE and USFWS is recommended to determine adequate procedure, as implementation of a construction project will require a formal wetland delineation and determination by the USACE, modification and/or mitigation measures, and will require agency approval. The USFWS's Conservation Guidelines (see Appendix B in the Biotec Study, found in Appendix C in this EIR) establishes avoidance or replacement mitigation that would be appropriate for impacts on the elderberry shrub in the project area. The City shall implement either or both Measures E.1.2b and E.1.2c if appropriate in locations where construction would affect the valley elderberry longhorn beetle habitat.	Public Works Department and Project Biologist	Consult with USACE and USFWS.	Prior to issuance of any construction contract.
E.1.2b. Avoidance: Avoid and protect habitat whenever possible. If suitable habitat for the valley elderberry longhorn beetle occurs in the project area, to the extent practicable these areas shall be designated as avoidance areas that will be protected from disturbance during construction. Any valley elderberry longhorn beetle habitat that cannot be avoided shall be considered impacted and appropriate mitigation shall be implemented as described under Mitigation Measure E.1.2c.	Public Works Department, Project biologist and Construction	Designate avoidance areas along Tuolumne River near Primary Plant or other riparian areas proposed for construction of wastewater facilities and provide	Establish buffer areas prior to commencement of construction and monitor throughout construction

BIOLOGICAL RESOURCES: Mitigation Measures	Responsibility	Action(s)	Timing
Core avoidance areas include all areas within 20 feet of the dripline of any elderberry plant with a stem measuring 1.0 inch (2.5 cm) or greater in diameter at ground level. Such core areas shall not be disturbed during construction. Buffer avoidance areas include all the area within 100 feet (30.5 m) of any elderberry plant with a stem measuring 1.0 inch (2.5 cm) or greater at ground level. If complete avoidance within a 100-foot (30.5 m) buffer cannot be provided, the USFWS must be consulted before any disturbances within the buffer area are considered. In addition, the USFWS must be provided with a map identifying the avoidance areas and written details describing the avoidance and protective measures. Protective measures include: • Temporary construction fencing shall be constructed to provide a minimum setback of at least 20 feet from the dripline of each potential host elderberry plant. • A tailgate education program on the valley elderberry longhorn beetle shall be given to each construction worker and all personnel working within the project area to avoid adverse effects on the beetle. • Signs every 50 feet (15.2 m) along the edge of the fence shall be placed along the exclusion fence to help identify the area as a protected area for the valley elderberry longhorn beetle for the duration of construction. Restoration and maintenance activities shall be implemented if activities occur within the 100-foot (30.5 m) buffer zone. Restoration and maintenance activities include: • Restore any damage done to the buffer area (area within 100 feet of elderberry plants) during construction. Provide erosion control and re-vegetate with appropriate native plants. • Buffer areas must continue to be protected after construction. Measures such as fencing, signs, weeding, and trash removal are usually appropriate. • No insecticides, herbicides, fertilizers, or other chemicals that might harm the beetle or its host plant shall be used in the buffer areas, or within 100 feet of any elderberry plant with one or more stems measuring 1.0 inch or greater in diameter at ground level. • The applicant must provide a written description of how the buffer areas are to be restored, protected, and maintained after construction is completed.	Contractor Representative	fencing, education of workers, signs, and implement restoration and maintenance activities.	

BIOLOGICAL RESOURCES: Mitigation Measures	Responsibility	Action(s)	Timing
• Mowing of grasses/ground cover may occur from July through April to reduce fire hazard. No mowing shall occur within five (5) feet of elderberry plant stems. Mowing must be done in a manner that avoids damaging plants (*e.g.*, stripping away bark through careless use of mowing/trimming equipment). **E.1.2c. Transplantation of Elderberry Plants:** If elderberry shrubs cannot be avoided, elderberry plants with one or more stems measuring 1.0 inch (2.5 cm) or greater in diameter at ground level shall be transplanted to a mitigation area. The following guidelines will be followed. • A qualified biologist shall monitor the project and mitigation sites for the duration of the transplanting to ensure no unauthorized take or loss of individuals occurs. • Elderberry plants will be transplanted after shrubs have lost their leaves and are dormant, usually from November through the first two weeks in February. • Transplanting shall be conducted according to standard procedures set forth by the USFWS, which includes planting additional seedlings or cuttings at various ratios for plants removed for translocating. • A mitigation area set aside for translocated plants shall provide habitat for the beetle in perpetuity. The mitigation area shall provide at least 1,800 square feet for each transplanted elderberry shrub and follow USFWS guidelines for other associated native plants to be planted within the area. This mitigation area shall be weeded by mechanical means (no herbicides) once a year. • The mitigation area will be monitored for the general condition of the mitigation area, the condition of the elderberry plants, and the associated native plants, for a period of 10 consecutive years with surveys and reports every year, or for 15 years of monitoring with surveys and reports on years 1, 2, 3, 5, 7, 10, and 15. Reports shall be provided to the USFWS.	Public Works Department, Project Biologist and Construction Contractor Representative	Retain qualified biologist; Identify and monitor elderberry plants and implement USFWS procedures for transplanting elderberry plants.	Prior to authorizing construction near affected areas
E.2.1. Burrowing Owl Avoidance: In conformance with Federal and State regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls shall be completed, in conformance with CDFG guidelines, prior to the start of construction within suitable habitat. If no Burrowing Owls are located during these surveys, no additional action would be warranted. However, if breeding or resident owls are located on, or immediately adjacent to, the site, the	Public Works Department and Project Biologist	Retain qualified biologist to conduct pre-construction survey for breeding or resident burrowing owls in pastures, fallow fields, canal rights of way and	Survey, establish construction schedule and buffer area prior to issuance of any construction

BIOLOGICAL RESOURCES: Mitigation Measures	Responsibility	Action(s)	Timing
following mitigation measures shall be implemented: • No burrowing owls would be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction. • A 250-foot buffer, within which no new activity would be permissible, would be maintained between project activities and nesting burrowing owls. This protected area would remain in effect until August 31, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently. • If accidental take (disturbance, injury, or death of owls) occurs, the CDFG would be notified immediately.		other areas where ground squirrels occupy or have occupied burrows or pipes or other locations that could be used by burrowing owls. If found, establish construction schedule to avoid nesting season, identify buffer areas, and report accidental take to CDFG	contract, and monitor during construction.
E.2.2. Compensation for loss of Burrowing Owl habitat: If a pre-construction survey finds that Burrowing Owls occupy the project site and avoiding construction in occupied areas is not feasible, then habitat compensation on off-site mitigation lands shall be implemented. Habitat Management lands comprising existing Burrowing Owl foraging and breeding habitat shall be acquired and preserved. An area of 6.5 acres (2.6 ha) (the amount of land found to be necessary to sustain a pair or an individual owl) shall be secured for each pair of owls, or individual in the case of an odd number of birds. As part of an agreement with the CDFG, the project applicant shall secure the performance of its mitigation duties by providing the CDFG with security in the form of funds that would: • Allow for the acquisition and/or preservation of 6.5 acres (2.6 ha) of Habitat Management lands. • Provide initial protection and enhancement activities on the Habitat Management lands, potentially including but not limited to such measures as fencing, trash clean-up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by CDFG. • Establish an endowment for the long-term management of the Habitat Management lands. • Reimburse the CDFG for reasonable expenses incurred as a result of the approval and implementation of this agreement. Pending CDFG approval, Habitat Management lands providing foraging habitat	Public Works Department and Project Biologist	If avoidance is not feasible, work with CDFG to secure a habitation mitigation agreement.	Prior to issuance of any construction contract.

BIOLOGICAL RESOURCES: Mitigation Measures	Responsibility	Action(s)	Timing
for Swainson's Hawks (see "Loss of Swainson's Hawk Foraging Habitat" below) may also be used to mitigate impacts to Burrowing Owls provided the Habitat Management lands provide existing Burrowing Owl foraging and breeding habitat.			
E.3.1. Avoidance of Nesting Raptors: To the extent practicable, construction shall be scheduled to avoid the nesting season, which extends from January through August.	Public Works Department	To the extent practicable, limit construction periods to Sept. through December in or near nesting raptor habitat.	Prior to issuance of any construction contract
E.3.2. Pre-construction Surveys: If it is not possible to schedule construction between August and January, then one of the following options shall be implemented: • With the approval of the CDFG, trees containing known or potential raptor nest sites may be removed to discourage future nesting attempts on the condition that no raptor pair is currently utilizing the site; or, • Pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist or wildlife biologist to ensure that no raptor nests would be disturbed during project implementation. A pre-construction survey shall be conducted prior to the initiation of demolition/construction activities during the early part of the breeding season (January through April) and prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the qualified person shall inspect all trees in and immediately adjacent to the impact areas for raptor nests. If an active raptor nest is found close enough to the construction area to be disturbed by these activities, the ornithologist, in consultation with CDFG, shall determine the extent of a construction-free buffer zone to be established around the nest.	Public Works Department and Project Ornithologist	Retain qualified ornithologist to conduct pre-construction surveys for nesting raptors and determine extent of construction-free buffer zone to be established.	Prior to issuance of any construction contract
E.4.1. Pre-Construction Surveys of sensitive riparian habitats, and Agency Coordination: Pre-construction surveys shall be conducted prior to project-related activities that would impact the resources of Dry Creek or the Tuolumne River in order to identify potentially significant impacts. If Dry Creek, the Tuolumne River, or their tributaries are impacted by project activities, USACE permits and a Streambed Alteration Agreement from CDFG may be required. If regulated habitats are impacted by project activities, USACE permits and a Streambed	Public Works Department and Project Biologist	Retain qualified biologist to conduct pre-construction surveys for projects that would impact Dry Creek and Tuolumne River and obtain USACE permit and Streambed Alteration	Prior to issuance of any construction contract.

BIOLOGICAL RESOURCES: Mitigation Measures	Responsibility	Action(s)	Timing
Alteration Agreement from CDFG would be required. Early consultation with the USACE and CDFG is recommended to determine adequate protocols, as project modification and/or mitigation measures may be necessary and would require agency approval.		Agreement from CDFG, as necessary.	
E.4.2. Mitigation for Species of Special Status: If construction activities would result in impacts to any of the special-status species identified as possibly occurring in the project area, mitigation measures for that species shall be implemented. If surveys indicate that impacts would result to a special-status species not identified as possibly occurring in the project area, or for which mitigation measures are not described in this report, avoidance and minimization measures to reduce project impacts to less-than-significant levels shall be determined through coordination with the City of Modesto, CDFG, and USFWS.	Public Works Department and Project Biologist.	Retain qualified biologist to conduct pre-construction surveys for special-status species occurring within a project area; Identify and implement mitigation measures.	Conduct pre-construction survey and identify mitigation prior to issuance of any construction contract. Implement mitigation measures throughout construction.
E.5. Compensation for loss of Swainson's Hawk foraging habitat: If project facilities are constructed on lands identified as potential foraging habitat for Swainson's Hawks then the impacts shall be mitigated by providing offsite Habitat Management lands as described in the CDFG protocol. The final acreage of offsite management lands to be provided would depend on the distance between the project area and the nearest active nest site. Prior to grading of any site with potential foraging habitat, protocol-level surveys shall be conducted to determine the nearest active nest, if an active nest is not known within one mile of the site. The 1994 CDFG staff report states (HM = Habitat Management in the following paragraphs): • Projects within one mile of an active nest tree shall provide: – One acre of HM land (at least 10% of the HM land requirements shall be met by fee title acquisition or a conservation easement allowing for the active management of the habitat, with the remaining 90% of the HM lands protected by a conservation easement [acceptable to the Department] on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's Hawk) for each acre of development authorized (1:1 ratio); or	Public Works Department and Project Biologist	Retain qualified ornithologist to conduct pre-construction surveys of project site in areas such as pasture, alfalfa, fallow fields, low-growing crops or field crops, rice land, and cereal grain crops to identify potential foraging habitat and active nests of Swainson's Hawks. If suitable foraging habitat is found, implement mitigation in accordance with CDFG requirements.	Prior to issuance of any construction contract.

BIOLOGICAL RESOURCES: Mitigation Measures	Responsibility	Action(s)	Timing
– One-half acre of HM land (all of the HM land requirements shall be met by fee title acquisition or a conservation easement [acceptable to the Department] which allows for the active management of the habitat for prey production on the HM lands) for each acre of development authorized (0.5:1 ratio). • Projects within 5 miles of an active nest tree but greater than 1 mile from the nest tree shall provide 0.75 acres of HM land for each acre of urban development authorized (0.75:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the department) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's Hawks. • Projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree shall provide 0.5 acres of HM land for each acre of urban development authorized (0.5:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the Department) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's Hawks. • Management Authorization holders/project sponsors shall provide for the long-term management of the HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands) at the rate of $400 per HM acre (adjusted annually for inflation and varying interest rates).			
E.6a. Pre-construction surveys for nesting Swainson's Hawks: In order to assure that nesting Swainson's Hawks will not be disturbed by construction activities at the Jennings Plant site, in developing areas where collection system extensions are being constructed on or within one mile of undeveloped properties that could have trees with active nests,, a qualified ornithologist shall conduct pre-construction surveys of the project site and adjacent areas within one mile of the project site. Survey Period I occurs from January 1 to March 20, Period II from March 20 to April 5, Period III from April 5 to April 20, Period IV from April 21 to June 10 (surveys not recommended during this period because identification is difficult as the adults tend to remain within the nest for longer periods of time), and Period V from June 10 to July 30. No fewer than three surveys shall be completed, in at least each of the two survey periods immediately prior to project initiation. If a	Public Works Department and Qualified ornithologist	Retain qualified ornithologist to conduct pre-construction surveys of project site and adjacent areas within one mile of project site during at least two of the survey periods identified. Identify and implement appropriate mitigation measures.	Prior to issuance of any construction contract.

BIOLOGICAL RESOURCES: Mitigation Measures	Responsibility	Action(s)	Timing
nest site is found, consultation with CDFG shall be required to ensure project initiation will not result in nest disturbance. **E.6b. Removal of Swainson's Hawk Nest Trees:** Nest trees on the project site(s) shall not be removed unless avoidance measures are determined to be infeasible. If a nest tree must be removed, a Management Authorization (including conditions to off-set the loss of the nest tree) must be obtained. The Management Authorization will specify the tree removal period, generally between October 1 – February 1. If construction or other project related activities which may cause nest abandonment or forced fledging are necessary within the buffer zone, monitoring of the nest site by a qualified biologist shall be required to determine if the nest is abandoned. If it is abandoned, and if the nestlings are still alive, the City shall fund the recovery and hacking (controlled release of captive reared young) of nestling(s).	Public Works Department and Qualified biologist	If avoidance measures are infeasible, obtain Management Authorization for removal of nest tree; Monitor nest tree and mitigate as appropriate if abandonment occurs due to construction activities.	Obtain Managament Authorization prior to issuance of any construction contract and removal of nest tree. Monitor nest tree throughout construction.
E.7. Pre-Construction Surveys for jurisdictional wetlands near Secondary Treatment Plant, and Agency Coordination: If project facilities are constructed on or adjacent to wetland areas and those areas potentially under the jurisdiction of the USACE and/or CDFG, pre-construction surveys shall be conducted. If these areas would be impacted by project activities, USACE permits and a Streambed Alteration Agreement from CDFG would be required. These agencies would request adequate measures to offset impacts to riparian and aquatic resources. Early consultation with the USACE and CDFG is recommended to determine adequate protocol, as project modification and/or mitigation measures may be necessary and would require agency approval.	Public Works Department and Qualified Biologist	Retain qualified biologist to conduct pre-construction surveys of potential wetland areas. Obtain USACE permits and Streambed Alteration Agreement for areas impacted by project activities and comply with permit requirements.	Conduct surveys and obtain permit prior to issuance of any construction contract. Comply with permit requirements throughout construction.
E.8. Preconstruction Surveys near microtunneling areas and Agency Coordination: Prior to initiating microtunneling in a riparian area, a survey shall be conducted to determine whether special status species or habitats are present on or immediately adjacent to the construction area. If it is determined that such species or habitats are present, and if the temporary impacts are determined to be significant, coordination with CDFG and USACE shall occur to determine appropriate avoidance steps or detailed mitigation measures to carry out prior to and during construction. These measures could include establishing a riparian buffer between the construction area and the identified resource or habitat, and monitoring during construction by appropriately qualified scientist(s).	Public Works Department and Qualified Biologist.	Retain qualified biologist to conduct pre-construction surveys for special status species or their habitats in riparian areas. Coordinate with CDFG and USACE, as appropriate.	Conduct survey prior to issuance of any construction contract. Implement and monitor avoidance and/or mitigation measures throughout construction.

TRANSPORTATION: Mitigation Measures	Responsibility	Action(s)	Timing
F.1. Implement the Urban Area General Plan 2003 Final Master EIR's mitigation measures related to traffic. This would reduce the significant cumulative impacts of growth accommodated by the Wastewater Master Plan, but not to less-than-significant levels.	Community and Economic Development Department	Implement mitigation measures for traffic as identified in the 2003 Urban Area General Plan Master EIR by imposing as conditions of approval on development projects	As part of approval of each development project warranting mitigation under the Urban Area General Plan

AIR QUALITY: Mitigation Measures	Responsibility	Action(s)	Timing
G.1: The construction plans for each group of building permits for wastewater system improvements shall incorporate the following recommendations from the San Joaquin Valley Air Pollution Control District to minimize emissions during construction phases:			
• The City or its contractor(s) shall review Regulation VIII of the San Joaquin Valley Air Pollution Control District regulations and prepare a compliance plan prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation VIII will be implemented.	Public Works Department and Construction Contractor Representative	Prepare a dust control compliance plan.	Prepare plans and review new technologies prior to commencent of construction;
• Prior to the issuance of construction contracts, the City or its contractor(s) shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what, if any, advances in emissions reduction are available for use. It is anticipated that in the near future both NO_x and PM_{10} control equipment will be available. The San Joaquin Valley Air Pollution Control District should be consulted during this process.		Review new emission control technologies in consultation with the SJVAPCD	
• The City or its contractor(s) shall limit traffic speed on unpaved roads to 15 miles per hour.		Implement these 4 dust control measures.	Implement and monitor compliance with dust and emission control measures throughout construction
• The City or its contractor(s) shall install sandbags or other control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.			
• The City or its contractor(s) shall install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site, to prevent track-out of soil to public roadways.			
• The City or its contractor(s) shall install windbreaks at windward sides of construction areas, if necessary to prevent wind-blown dust.			
• The City or its contractor(s) shall suspend excavation and grading activity when winds exceed 20 miles per hour.		Limit or suspend grading when winds exceed 20 mph.	
• The City or its contractor(s) shall limit the area subject to excavation, grading, and other construction activity at any one time.		Limit area of disturbance	
• The City or its contractor(s) shall ensure that the accumulation of mud		Implement street sweeping	

AIR QUALITY: Mitigation Measures	Responsibility	Action(s)	Timing
or dirt is expeditiously removed from adjacent public streets at least once every 24 hours when construction activities are occurring (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions). • The City or its contractor(s) shall use alternative-fuel construction equipment, where feasible. • The City or its contractor(s) shall minimize idling time (e.g., to a 10-minute maximum). • The City or its contractor(s) shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical. • The City or its contractor(s) shall replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set), where feasible. • The City or its contractor(s) shall take steps to curtail construction activity during periods of high ambient pollutant concentrations; this may include reducing construction activity during the peak hour of vehicular traffic on adjacent roadways or ceasing construction activity during days declared as Spare the Air days by the San Joaquin Valley Air Pollution Control District. • The City or its contractor(s) shall implement activity management to reduce cumulative short-term impacts.		program during construction Use alternative fuel equipment, where feasible Require contractor to minimize idling time. Work with contractor to establish minimum numbers of hours of operation of heavy equipment Implement ozone precursors control measures as specified in construction contract. Establish limitations on construction activities when spare-the-air days are declared by SJVAPCD; include in construction contracts. Implement measures included in contract, and report implementation in Daily construction log.	
G.2: The City shall abide by permit limits imposed by the SJVAPCD to reduce pollutant emissions from diesel-powered engines for emergency power generation and any other sources requiring permits. The City shall abide by permit limits imposed by the SJVAPCD on operation of digester-gas burning equipment at the Primary Plant.	Public Works Department	Obtain permits from SJVAPCD as required and comply with permit limits.	Prior to operation of facilities requiring SJVAPCD permit and ongoing, during operation of wastewater facilities.

AIR QUALITY: Mitigation Measures	Responsibility	Action(s)	Timing
G.5: With implementation of the *Urban Area General Plan's* mitigation measures related to traffic and energy use (and related to carbon monoxide and particulate matter, in particular), the significant cumulative impacts of growth accommodated by the project would be reduced, but not to less-than-significant levels.	Community & Economic Development Department	Implement air quality mitigation measures as identified in the 2003 Urban Area General Plan Master EIR by imposing as conditions of approval on development projects	As part of approval of each development project warranting mitigation under the Urban Area General Plan

NOISE: Mitigation Measures	Responsibility	Action(s)	Timing
H.1. Protection of sensitive receptors from excessive construction noise: In areas where there are sensitive receptors, the City shall ensure that contractors implement the following practices: • To the extent feasible, construction activities shall be restricted to the hours between 7:00 a.m. and 9:00 p.m., Monday through Friday, and between 9:00 a.m. and 9:00 p.m., Saturday and Sunday and state or federal holidays; minor construction equipment servicing and maintenance shall be excepted from this restriction. • Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. • Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. • Stationary noise sources and construction staging areas shall be located as far as possible from existing residences, hospitals, schools, churches, and parks (preferably at least 200 feet), or contractors shall be required to provide additional noise-reducing engine enclosures (with the goal of achieving approximately 10 dBA of reduction compared to uncontrolled engines). • Construction vehicle access routes shall be designed to minimize the impact on sensitive land uses such as schools and residential areas.	Public Works Department and Construction Contractor Representative	Determine whether construction would occur near sensitive receptors; if so, require noise-reduction measures in construction contracts. Implement construction noise control measures.	Make determinations prior to issuing construction contracts Implement and monitor noise-reduction measures during all phases of site preparation and exterior construction activities.

PUBLIC HEALTH AND SAFETY: CONTAMINATED SOILS AND DEMOLITION: Mitigation Measures	Responsibility	Action(s)	Timing
K.1a. Prior to activities involving soil disturbance for the improvements to the wastewater collection and treatment systems, the City shall use reasonable means to determine the presence of soil or groundwater contamination. Those reasonable means may consist of soil gas surveys, soil or groundwater sampling, and/or a Phase I Environmental Site Assessment conducted by a qualified professional (e.g., a California-registered environmental assessor, Professional Geologist, or Professional Engineer). Any Phase I environmental site assessment shall be performed in conformance with the most recent standard adopted by ASTM International for Phase I site assessments, and shall present recommendations for further investigation of the site, if necessary (see Mitigation Measure K.1b below for details).	Public Works Department and, if appropriate, Environmental professional	Use reasonable means to determine presence of soil or groundwater contamination and retain environmental professional, if appropriate.. Report findings and recommendations to the City.	Prior to commencement of grading or construction
K.1b. If warranted, conduct soil and groundwater sampling and analysis. If the investigation activities in Mitigation Measure K.1a (e.g., soil gas surveys, sampling, and/or preparation of a Phase I environmental site assessment) were to indicate that a release of hazardous materials could have affected the location(s) where soil disturbance would occur, a Soil and/or Groundwater Investigation shall be conducted prior to soil disturbance by a qualified environmental professional (e.g., Professional Geologist, Professional Engineer) to assess the presence and extent of contamination at the site and the potential risk to human health and public safety from the contamination (if any). The Soil and/or Groundwater Investigation shall be conducted in accordance with state and local guidelines and regulations, and the most recent ASTM International Standard for Phase II Environmental Site Assessments, with oversight from a regulatory agency (e.g., Stanislaus County Environmental Resources Department). The findings of the investigation shall be documented in a written report and submitted to the regulatory agency and the City.	Public Works Department and Environmental professional	Conduct soil and groundwater sampling and analysis if warranted. Report findings to City.	Prior to commencement of grading or construction.
K.1c. If warranted, prepare a site remediation plan and health and safety plan. If the results of the subsurface investigation(s) (described in Mitigation Measure K.1b) indicate the presence of hazardous materials, the Stanislaus County Department of Environmental Resources shall be notified, and site remediation may be required by the applicable state or regulatory agency or the County Department of Environmental Resources Site Mitigation Unit. Specific remedies would depend on the extent and	Public Works Department, Environmental professional and Construction Contractor	If warranted by results of implementing Measure K.1b, prepare site remediation plan and site health and safety plan and implement site	Prior to commencement of grading or construction.

PUBLIC HEALTH AND SAFETY: CONTAMINATED SOILS AND DEMOLITION: Mitigation Measures	Responsibility	Action(s)	Timing
magnitude of contamination and the requirements of the regulatory agencies. Under the direction of the regulatory agencies and the City, a Site Remediation Plan shall be prepared, as required, by the contractor(s). The Plan shall: 1) specify measures to be taken to protect workers and the public from exposure to the potential site hazards, and 2) certify that the proposed remediation measures would clean up the waste, dispose the wastes, and protect public health in accordance with federal, state, and local requirements.	Representative	remediation plan	
If the parcel is found to be contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard shall be evaluated in the Site Remediation Plan, in accordance with the General Plan. Groundbreaking activities in the areas of potential hazard shall not proceed until the Site Remediation Plan has been reviewed and approved by the County and is on file with the City.			During any excavation, grading or other soil disturbance.
K.1d. Where any activity would be performed at a contaminated site or where hazardous materials are suspected, the City's contractor shall prepare a project-specific Health and Safety Plan prior to any site work. The Health and Safety Plan shall be prepared by the contractor(s) filed with the City and regulatory agencies (as required). The Plan shall include required worker health and safety provisions for all workers potentially exposed to contaminated materials at the site, identification of hazardous materials present, monitoring to be performed during site activities (as appropriate), required training for workers, identification of appropriate personal protective equipment and emergency response procedures, and designation of personnel responsible for Plan implementation.	Public Works Department, Construction Contractor's Representative and Environmental Professional	If soil-disturbing activities would be in known or suspected contaminated areas, prepare site health and safety plan for City review and approval.	At early stage of construction contract, prior to any soil-disturbing activities.
K.1e. Prepare a Waste Disposal and Hazardous Materials Transportation Plan. The contractor(s) shall prepare a Waste Disposal and Hazardous Materials Transportation Plan prior to construction activities where hazardous wastes or materials requiring off-site disposal would be generated. The plan shall include a description of analytical methods for characterizing wastes and handling methods required to minimize the potential for exposure, and shall establish procedures for the safe storage of contaminated materials, stockpiling of soils, and storage of dewatered groundwater (as appropriate). The required disposal method for contaminated materials (including any lead-based paint, asbestos, or other hazardous building materials requiring disposal, see Mitigation Measure K.3) and the approved disposal	Public Works Department, Construction Contractor's Representative, and Environmental Professional	Where hazardous wastes or materials requiring off-site disposal would be generated, prepare Waste Disposal and Hazardous Materials Transportation Plan for City review and approval.	At early stage of construction contract, prior to construction activities that would transport hazardous materials or hazardous wastes off site.

PUBLIC HEALTH AND SAFETY: CONTAMINATED SOILS AND DEMOLITION: Mitigation Measures	Responsibility	Action(s)	Timing
site shall be indicated in the Plan. The Plan shall also identify specific routes to be used for transport of hazardous materials and waste to and from the project site, or specific routes to be avoided during transport. Routes shall be selected to minimize proximity to sensitive receptors to the greatest practical degree. Elements of the Plan regarding transportation of hazardous materials and wastes shall be reviewed and approved by the City Fire Department.			
K.1f. In the event that previously unidentified contamination is encountered (e.g., identified by odor or visual staining) during soil disturbance activities, or any underground storage tanks, abandoned drums, or other hazardous materials or wastes are encountered during construction, the contractor(s) shall immediately notify the City, and the City shall then notify the County. The contractor(s) shall have prepared a Contingency Plan for Sampling and Analysis of potentially hazardous substances and coordination with appropriate regulatory agencies. The Plan shall be submitted to the City prior to project activities involving soil disturbance. Any site investigations or remedial activities shall be performed in accordance with applicable laws under the direction of a regulatory agency and the City, in accordance with Mitigation Measures K.1c through K.1e above.	Public Works Department, Construction Contractor's Representative and Environmental professional	Prepare contingency plan for sampling and analysis of unidentified potentially hazardous substances. Stop work and notify City immediately if suspected hazardous material is encountered during soil disturbance or structure demolition.	Prior to commencement of grading or construction or any other soil disturbing activities. Ongoing, during all excavation and site preparation activities.
K.2. The contractor(s) shall prepare a procedure for review by the City for emptying pipes of their contents before pipe bursting begins. Once accepted by the City, with revisions if requested, the contractor shall implement the procedure prior to carrying out any pipe bursting. The purpose of this measure is to avoid the migration of any potentially hazardous materials in the pipes that may be released during pipe bursting into soil and groundwater, and to ensure the health and safety of construction workers and the public by reducing potential exposure. Material removed from the pipes before pipe bursting shall be characterized, handled, stored, and disposed of in accordance with the requirements of Mitigation Measure K.1e, above.	Construction Contractor and/or its environmental professional; Public Works Department	Prepare procedure for emptying and testing pipe contents for City review and approval. Once approved, implement procedure	Prior to commencing pipe bursting procedure

PUBLIC HEALTH AND SAFETY: CONTAMINATED SOILS AND DEMOLITION: Mitigation Measures	Responsibility	Action(s)	Timing
K.3. As a condition of approval for any demolition permit for a structure or facility potentially containing lead or asbestos under the proposed project, a lead-based paint and asbestos-containing survey shall be performed at the structure or facility by a qualified environmental professional. Also, any major modification to structures constructed prior to 1980 shall require a similar lead and asbestos survey for those portions of the structure to be modified. Based on the findings of the survey, all loose and peeling lead-based paint and identified asbestos hazards shall be abated by a certified contractor in accordance with local, state, and federal requirements. The findings of the survey shall be submitted to the City. Other hazardous materials and wastes generated during demolition or renovation activities, such as fluorescent light tubes and mercury switches, shall be managed and disposed of in accordance with applicable universal and hazardous waste regulations. Federal and state construction worker health and safety regulations shall apply to demolition activities, and any required worker health and safety procedures shall be incorporated into the contractor's specifications for the project. The requirements of Mitigation Measures K.1c through K.1f shall also apply.	Public Works Department, Construction Contractor's Representative and Environmental professional	Retain environmental professional to conduct pre-demolition surveys and report findings to City. Implement abatement as required by environmental professional.	Conduct survey prior to issuance of any construction contract and implement abatement prior to demolition of the structure.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-179

A RESOLUTION APPROVING THE 2007 WASTEWATER MASTER PLAN, WITH ADDENDA (PHASE 1 - COLLECTION SYSTEM AND PHASE 2 - TREATMENT SYSTEM) AS COMPLETE

WHEREAS, Council had approved contracts with Carollo Engineers to update the City's Wastewater Master Plan (WWMP), and

WHEREAS, the WWMP was divided into two major components with Phase 1 focusing on the Wastewater Collection System and Phase 2 concentrating on the Wastewater Treatment and Disposal System, and

WHEREAS, the WWMP serves as a roadmap in identifying wastewater infrastructure needed to serve both existing and future users via build-out of the City's planned sewer service area, and

WHEREAS, having a current and comprehensive WWMP is a critical step in keeping ahead of the replacement requirements of an aging infrastructure system and the pressures of expanding urban growth, and

WHEREAS, WWMP has identified a Capital Improvement Program for both Wastewater Collection and Treatment Facilities that will be required for the build-out of the City's Sewer Service Area, and

WHEREAS, Carollo Engineers has completed the 2007 Wastewater Master Plan, with Addenda,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the 2007 Wastewater Treatment Master Plan, with Addenda (Phase 1 - Collection System and Phase 2 - Treatment System) as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar , was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

RESCINDED

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FEB - 5, 2008

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION 2008-070

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-180

A RESOLUTION AMENDING SECTION 3.D.2.h OF RESOLUTION NO. 2006-61 TITLED "CAPITAL FACILTIES FEES POLICIES AND PROCEDURES" TO MODIFY THE EXEMPTION POLICIES FOR REPLACEMENT AND RECONSTRUCTIONN OF NON-RESIDENTIAL AND MULTI-FAMILY RESIDENTIAL STRUCTURES

WHEREAS, Sections 8-1.904 of the Modesto Municipal Codes authorizes the Council by resolution to establish Capital Facilities Fees ("CFF"), and

WHEREAS, since the inception of the CFF Program, multiple fee rate programs and policies relating to the administration of CFF have been established, and

WHEREAS, on January 24, 2006, the Council adopted Resolution No. 2006-61 combining the policies mentioned above and general CFF administrative guidelines into one document, called Capital Facilities Fees Policies and Procedures ("CFF Policies and Procedures"), and

WHEREAS, it may be necessary and beneficial to revise or modify the CFF Policies and Procedures from time to time, and

WHEREAS, current CFF exemption policy for replacement and reconstruction of non-residential and multi-family residential use structures permits applicants to expand square footage by no more than ten percent (10%) to receive a CFF exemption, and

WHEREAS, current CFF exemption policy for replacement and reconstruction of non-residential and multi-family residential use structures requires applicants expanding square footage by more than ten percent (10%) to pay full CFF based on the square footage of the entire structure, and

WHEREAS, it is recommended that the CFF exemption policies for the replacement and reconstruction of all non-residential and multi-family residential use

structures be modified to require CFF payment to be made on the incremental difference in total square footage of new construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the CFF Policies and Procedures as follows and incorporated herein by reference:

Section 3.D.2.h. of the CFF Policies and Procedures read as follows:

For new developments, when a structure is demolished and a new structure is built, an exemption is appropriate for the structure that was destroyed provided:

Residential exemption: Any replacement or reconstruction of a residential structure that has been destroyed or demolished, provided that the building permit for reconstruction is obtained within two (2) years after the building was destroyed or demolished except to the extent that additional units are created and replacement or reconstruction is limited to residential use only.

Multi-family Residential: The payment of CFF will be exempt for the rebuilding of any multi-family residential structure that has been destroyed or demolished if both of the following conditions are met:

1. The square footage of the rebuilt structure is equal to or less than the square footage of the destroyed or demolished structure, and
2. The number of residential units in the rebuilt structure is equal to or less than the residential units that were contained in the destroyed or demolished structure.

Non-residential exemption: The payment of CFF will be exempt for the rebuilding of any non-residential structure that has been destroyed or demolished if both of the following conditions are met:

1. The square footage of the rebuilt structure is equal to or less than the square footage of the destroyed or demolished structure, and
2. The use of the rebuilt structure is the same as the destroyed or demolished structure.

If Condition #2 is met, and the square footage increases, then CFF shall be paid on only the incremental square footage increase.

BE IT FURTHER RESOLVED that Section 3.D.2.h. of Resolution No. 2006-61 is hereby amended effective upon adoption of this resolution, and all other provisions of

Resolution No. 2006-61 not in conflict with this resolution shall remain in full force and effect.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen, Mayor Ridenour

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____

SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-181

A RESOLUTION APPROVING AN AMENDED ADVANCED FUNDING AGREEMENT FOR THE TIVOLI SPECIFIC PLAN AREA BETWEEN THE CITY OF MODESTO, ON THE ONE HAND, AND RUSSELL A. NEWMAN, PROFESSIONAL LAW CORPORATION, TOM TROMBETTA, AND SHERRY TROMBETTA, ON THE OTHER HAND, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE TIVOLI SPECIFIC PLAN AREA, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDED AGREEMENT

WHEREAS, Russell A. Newman, Professional Law Corporation, Tom Trombetta, an Individual, and Sherry Trombetta, an Individual ("Applicant"), have agreed to advance funds necessary to prepare a Facilities Master Plan ("FMP") and Infrastructure Finance Plan ("IFP"), and for formation of a Community Facilities District ("CFD") for the Tivoli Specific Plan Area, and

WHEREAS, the parties agreed to enter into an Amended Advanced Funding Agreement for the Tivoli Specific Plan Area by and between the City and the Applicant relating to advances made and to be made by the Applicant to the City, and providing for potential reimbursement to the Applicant if and when certain funds from the Tivoli CFD become available, a copy of which is attached as **Exhibit A**,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Amended Advanced Funding Agreement for the Tivoli Specific Plan Area between the City of Modesto, on the one hand, and Russell A. Newman, Professional Law Corporation, Tom Trombetta, and Sherry Trombetta, on the other hand, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amended Advanced Funding Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

AMENDED ADVANCED FUNDING AGREEMENT
FOR THE TIVOLI SPECIFIC PLAN AREA

THIS AMENDED ADVANCED FUNDING AGREEMENT FOR THE TIVOLI SPECIFIC PLAN AREA (this "Agreement"), dated as of _____, 2007 ("Effective Date"), is entered into by and between the CITY OF MODESTO, a municipal corporation of the State of California ("City"), on the one hand, and RUSSELL A. NEWMAN, a Professional Law Corporation, and TOM TROMBETTA, an individual and SHERRY TROMBETTA, and individual (collectively the "Applicants"), on the other hand.

RECITALS:

A. Applicants have - legal interests in real property located within the Tivoli Specific Plan Area ("Specific Plan") shown in Exhibit A attached hereto and incorporated herein by this reference, and are interested in pursuing development of properties in the Specific Plan.

B. Applicants have requested that the City prepare a Facilities Master Plan and Infrastructure Finance Plan ("FMP/IFP"), and create an appropriate financing mechanism, such as a community facilities district ("CFD") for the Specific Plan in order to facilitate the master planning and financing of various public facilities and services which are necessary to serve or desirable for the development of the Specific Plan (collectively the "Project").

C. City has either retained, or will retain outside consultants, to assist it with the Project and, if the City determines to proceed with the formation of a CFD, to assist it in connection therewith and with the possible issuance of bonds.

D. The scope of work for the Project ("Scope"), including the estimated costs for completing the Project ("Estimated Costs"), is attached as Exhibit B.

E. Collectively applicants are prepared to deposit with the City the amounts needed to fund as set forth in the Scope plus 30% for staff time and expenses in order to provide the City with an initial source of funds with which to pay expenses expected to be incurred in connection with the Project. Additional deposits will be provided by Applicants, as required by the City. Applicants desire to share in said costs in order to facilitate Applicants' ability to secure development entitlements for and annexation of Applicants' properties.

F. The City and Applicants are desirous of entering into this Agreement in order to provide monies for the City's costs for preparing the Project on a time and materials basis, to provide mechanisms by which the funds deposited under this Agreement shall be applied and by which Applicants may make additional deposits, and to reimburse Applicants for monies advanced for the benefit of other landowners in the Project.

G. Pursuant to California Government Code Section 53314.9 and the City's CFD Policies and Procedures, the City Council of the City is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred in connection with the planning and formation of a community facilities district. The City Council of the City is also authorized to enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind to

repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value of the work-in-kind provided that certain conditions are met. The conditions to be satisfied with respect to funds advanced require that (1) the proposal to repay the funds or to pay the cost or value of the work-in-kind must be included in the resolution of intention for the proposed community facilities district and in the resolution of formation for the proposed community facilities district, (2) any proposed special tax is approved by the qualified electors of the community facilities district and, if a proposed special tax is not approved, any funds advanced which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

H. The City and the Applicants are desirous of entering into this Agreement in accordance with Government Code Section 53314.9 and the City's CFD Policies and Procedures in order to provide a mechanism by which the Applicants may make additional deposits if determined necessary pursuant to the City's CFD Policies and Procedures and, when and if bonds are issued and proceeds are available, the CFD can reimburse the Applicants for the amounts advanced by the Applicants.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.

2. Proposed Preparation of the Facilities Master Plan and Infrastructure Financing Plan.

   a. Applicants agree to pay all costs of preparing, processing and approving the FMP/IFP.

   b. On or about January 9, 2007, Applicant Russell A. Newman, PLC ("Newman") executed an Advanced Funding Agreement with the City. On or about December 5, 2006, Newman deposited an initial deposit of $300,000 to fund Task 1 as identified in the Scope ("Initial Deposit"). On or about January 10, 2007 City issued a Notice to Proceed to its Consultant to proceed with Task 1 on a time and materials basis. The Initial Deposit will be held in trust by the City and used solely for the purposes set forth in this Agreement.

   c. Prior to Council consideration of this Agreement, Applicants shall deposit with the City their proportionate shares of the remainder of the Estimated Costs, excluding costs for formation of the CFD, based on the percentages and in the amounts shown on Exhibit C attached hereto ("Supplemental Deposit"). The Supplemental Deposit includes 30% for staff time and expenses. The Supplemental Deposit will be held in trust by the City and used solely for the purposes set forth in this Agreement. Upon receipt by the City of the Supplemental Deposit and all documents deemed necessary by the City to proceed with the Project, the City will commence work on the Project on a time and materials basis and will provide a Notice to Proceed to its Consultant to

proceed with all remaining Tasks. In connection therewith, the City has either retained, or will retain, the consultants that the City determines necessary or convenient to assist it with the Project and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

After the Initial Deposit and Supplemental Deposit have been expended on the Project, Applicants shall make additional advances to the City as provided by subparagraph (e), below, until the Project has been completed or terminated, and all costs associated with the Project have been fully paid.

d. The consultants shall submit invoices to the City for payments based on work completed. Such invoices will be promptly sent by the City to the Applicants, who will have five (5) business days to challenge the work performed. The City will in good faith consider the position of the Applicants prior to approving payment for the invoice. Applicants understand and agree that City shall have the right, in its sole discretion, to approve and pay all such consultant invoices, and may do so without obtaining Applicants' approval.

Applicants shall make additional advances to the City within ten (10) business days following receipt from the City of a request for an additional advance to the cover the costs referred to herein. Any additional advances shall be made by Applicants based on the proportionate share that each party paid toward the original deposits ("Additional Advances"). The percentage shares for purposes of making additional advances are set forth in Exhibit C. In the event that any Applicant does not deliver its share of the Additional Advances to the City within this ten (10) business day period, the City will notify the other Applicant and offer the other Applicant the opportunity to deposit an amount equal to the missing share of the Additional Advances, then the reimbursement percentages will be adjusted accordingly. If no Applicant provides the Additional Advance, then City will have no obligation to proceed with any activity relating to the Project.

An Applicant may notify the City at any time, in writing, of its intention to abandon the Project. Within ten (10) business days of such notice City shall instruct its consultants to cease work immediately unless within that ten (10) business day period another Applicant offers to and does pay all funding costs which would have been paid by the Applicant who withdraws. The Applicants shall be responsible for all costs and expenses incurred by the City or any City consultant or advisors relating to the Project until City issues this cease work notice.

e. Within 60 calendar days after issuance of a cease work notice, City agrees to return to Applicants all unexpended amounts of the Initial Deposit, Supplemental Deposit and any subsequent deposits which exceed all costs and expenses incurred by City relating to the Project.

f. Applicants agree that, notwithstanding the funding and reimbursement obligations under this Agreement, the consultants selected by the City shall be the contractors exclusively of the City and not of the Applicants. Except for those

disclosures required by law including, without limitation the Public Records Act, all conversations, notes, memoranda, correspondence, and other forms of communication by and between the City and its consultants shall be, to the extent permissible by law, privileged and confidential and not subject to disclosure to the Applicants. Applicants agree that they shall have no claim to, nor shall they assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work project produced by City's consultants. Applicants understand that they will not be third party beneficiaries to City's contracts with the consultants. City will consult with Applicants prior to replacing its current consultants; however, Applicants agree that City may select other consultants to replace its current consultants and may do so without obtaining Applicants' approval.

g. City and Applicants shall work cooperatively and in good faith to facilitate completion of the Project as quickly as possible and in the most cost effective way. City and Applicants shall meet and consult on dates and times as may be mutually agreed upon to discuss the progress and any key issues involved in the Project; provided, however, that Applicants' role is advisory only and that City shall control all aspects of the Project. The final work product to be produced by City's consultants shall be subject to the City's sole approval and control.

3. Proposed Formation of the CFD and Issuance of Bonds.

a. Applicants agree to pay all costs of preparing, processing and forming a CFD for the Specific Plan area.

b. Upon receipt by the City of a completed application for the formation of the CFD, the formation deposit for the CFD, and all documents related thereto as described in the City's CFD Policies and Procedures, the City will undertake to analyze the appropriateness of forming the CFD and the issuance of bonds by it. In connection therewith, the City has either retained or will retain, at the Applicants' expense, the consultants that the City determines necessary or convenient to assist it in studying the proposed formation of the CFD and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

c. Pursuant to the City's CFD Policies and Procedures, the Applicants shall make additional advances to the City within ten (10) days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event the Applicants do not deliver the requested amount to the City within such ten (10) day period, the City will have no obligation to proceed with any activity relating to the formation of the CFD and/or the issuance of bonds. The Applicants may notify the City at any time, in writing, of their intention to abandon the formation of the CFD or the issuance of bonds. Upon receipt of such notice, the City shall instruct its consultants to cease work as soon as practicable. The Applicants shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor relating to the proposed formation of the CFD and/or bond issuance until work with respect to the proposed formation or bond issuance ceases following the receipt of the Applicants' notice of abandonment. Within 60 calendar days after receipt of the Applicants' notice of

abandonment, City agrees to return to Applicants all unexpended amounts of any advances which exceed all costs and expenses incurred by City relating to the Project.

4. Reimbursement Procedure. If the CFD is formed and bonds are issued, bond proceeds in excess of the amount determined by the City's District Administrator to be required in order to administer the CFD, and to satisfy the requirements of the City's CFD Policies and Procedures with respect to capitalized interest and reserves, and to pay for the facilities and other incidental expenses, may be used to reimburse the Applicants for the amounts that the Applicants have advanced to the City in connection with this Agreement.

In the event that the CFD is not formed for any reason, or in the event that the CFD is formed and bonds are not issued for any reason, the City shall return any funds which have been advanced by the Applicants pursuant to this Agreement and which have not been expended, obligated or otherwise committed for any authorized purpose, subject to the complete reimbursement to the City of all of its direct and indirect costs. If the amounts previously advanced by the Applicants are insufficient to fully reimburse the City for all of its direct and indirect costs, the Applicants shall promptly pay to the City the amount of the deficiency in accordance with the percentages set forth in Exhibit C.

The City shall be entitled to pay any refund required pursuant to the provisions hereof to the entity that is the signatory to this Agreement irrespective of any changes in the ownership of the property or the organization of the Applicants, and the City shall not be required to pay interest on any amount required to be refunded pursuant to this Agreement. The City shall issue refunds or reimbursements, if any, in accordance with the percentages set forth in Exhibit C.

5. Abandonment of the Project. Applicants understand that, subject to the satisfaction of all applicable legal requirements, the decision to review, process, prepare or approved the proposed Project, shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to review, process, prepare or approve the proposed Project. The City shall have no liability to Applicants for a decision not to review, process, prepare or approve the proposed Project.

6. Abandonment of Proposed CFD. Applicants understand that, subject to the satisfaction of all applicable legal requirements, the decision to form the CFD and the decision to issue bonds shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to form the CFD or to issue bonds. Should the proceedings to form the CFD be abandoned for any reason, the City shall provide written notification of such abandonment to Applicants and shall return to Applicants all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by the City relating to formation of the CFD. Said monies shall be returned within 60 days of the issuance of the written notice of abandonment. Except for such reimbursement, the City shall have no liability to Applicants for a decision not to form the CFD or issue bonds.

7. Indemnification and Hold Harmless. Applicants hereby assume the defense of, and indemnify and save harmless, the City and each of its officers, directors and employees, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of or arising out of any acts or omissions of Applicants or any of the Applicants' officers, employees, contractors and agents in connection with the proposed formation of the CFD or any work-in-kind provided by or on behalf of the Applicants or their

consultants, except for any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

8. Notices. Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

Applicant: RUSSELL A. NEWMAN, Professional Law Corporation
1020 Tenth Street
Modesto, CA 95354
Attention: Dave Romano
Phone: (209) 521-9521
Facsimile: (209) 521-4968

and

Cal-Pacific
c/o Reininga Corporation
456 Montgomery Street, Suite 1000
San Francisco, CA 94104

and

Tom Trombetta and Sherry Trombetta
3941 Roselle Avenue
Modesto, CA 95355
Phone: (209) 551-5555
Facsimile: (209) 551-8868

City: City of Modesto
1010 Tenth Street, Suite 6100
Modesto, California 95354
Attention: IFP Administrative Officer
Phone: 209-577-5211
Facsimile: 209-571-5128

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

9. Assignment. The Applicants may not assign their interests in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld. Any assignment or attempt to assign this Agreement without the prior written consent of City shall be deemed null and void as of the date of the purported assignment. All covenants, stipulations, and agreements in this Agreement shall bind any such representatives, successors and assigns.

10. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

11. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

12. Amendments. This Agreement may be amended or modified only by written instrument signed by all parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

13. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof; and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City (and its officers, directors, employees and agents providing services under this Agreement) and the Applicants, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

15. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

16. Termination. This Agreement shall terminate and be of no further force and effect on the third anniversary of the date of this Agreement unless expressly amended by the parties; provided, however, that the Applicants' obligations under Section 7 shall survive the termination and the City's obligation to provide reimbursement in accordance with Section 4 for expenses incurred prior to the termination date shall also survive termination.

17. Time is of the Essence. Except as otherwise expressly stated, time is of the essence in the performance of each and every action required pursuant to this Agreement.

18. Language Construction. The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

19. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

20. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and

Applicant or its agents, employees or contractors. Except as City may specify in writing, Applicants shall have no authority to act as an agent of City or to bind City to any obligation.

21. Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of this Agreement's provisions.

22. Waiver. The waiver by any party to this Agreement of any action, obligation, or commitment required by this Agreement or of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof or of any action, obligation, or commitment required by this Agreement unless specifically stated in writing.

23. Discretion of the City. City's execution of this Agreement in no way limits the discretion of City in the permit and approval process in connection with any entitlements within City's jurisdiction, including those related to the Project, or with the design, construction or funding of any onsite or offsite infrastructure improvements within the City's jurisdiction.

24. Prior Agreement. The parties acknowledge that on or about January 9, 2007, City and Newman entered into a contract for the same or similar work as contemplated by this Agreement ("Prior Agreement"). As of the Effective Date of this Agreement, this Agreement shall supersede the Prior Agreement and said Prior Agreement shall be automatically terminated. The parties further agree that to the extent any conflict exists between this Agreement and the Prior Agreement, the terms and conditions of this Agreement control.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2007-____, adopted by the Council of the City of Modesto on the _____day of _____, 2007, and Russell A. Newman, PLC, Tom Trombetta and Sherry Trombetta have caused this Agreement to be executed in duplicate, as of the Effective Date first written above.

CITY OF MODESTO, a municipal corporation

By: _____
GEORGE W. BRITTON, City Manager

ATTEST:

By: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By: _____
ALISON A. BARRATT-GREEN
Senior Deputy City Attorney

RUSSELL A. NEWMAN, Professional Law Corporation

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

TOM TROMBETTA, an individual

By: _____

Name: _____

Title: _____

SHERRY TROMBETTA, an individual

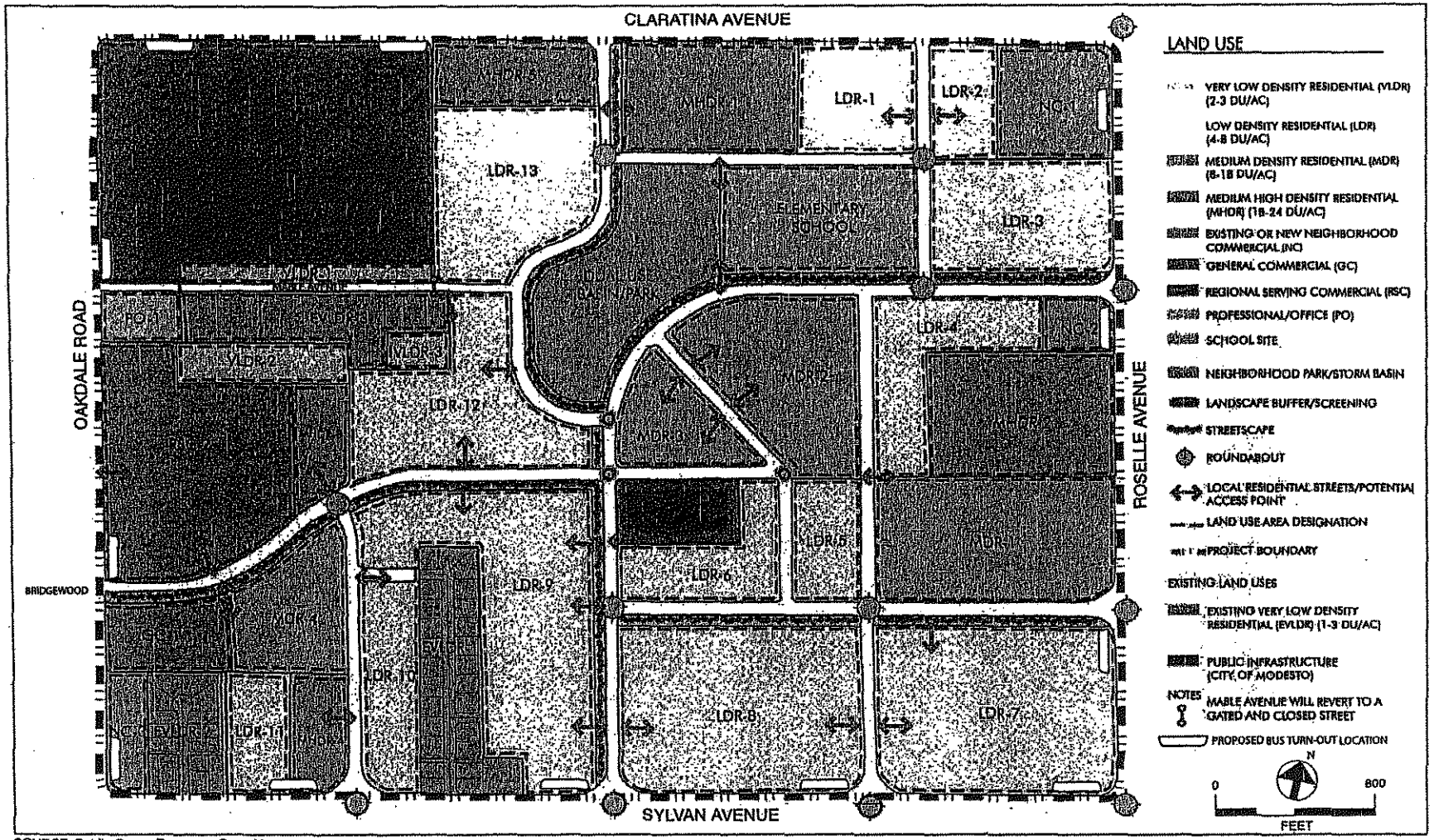
By: _____

Name: _____

Title: _____

Signature Requirements
Corporation:
1. Signature of two (2) officers
or
2. Signature of one (1) officer plus the corporate seal

Partnership: Signature of one partner
Sole Proprietorship: Signature of proprietor



SOURCE: Dahlin Group, Turnstone Consulting

Exhibit "A"

Exhibit "B"

Harris & Associates
Scope of Work
For Task Order No. 4
Tivoli Development Project
Preparation of the Facilities Master Plan
and Infrastructure Financing Plan
December 27, 2006

The following describes Harris and Associates' (Harris) approach and level of effort for this scope of work. There are four sub consultants on this project; West Yost and Associates for Water; Carollo Engineers for Wastewater; Omni Means for Traffic; and Stantec for Storm Drainage. The scopes of work for each of the sub consultants are shown in Exhibits A through D. The cost estimate for Harris' hours and the sub-consultants are summarized in Exhibit E. Harris' hourly rates are shown in Exhibit F. In addition, Goodwin Consulting Group will prepare the necessary documents for the Community Facilities District. That fee is included in Exhibit D.

The following work will be performed on a time and materials (four sub-tasks):

- Task 4.1 reviews the technical studies associated with the project's Final EIR and defines the obligation (benefit and burden) that each acre of land within the development will have for infrastructure improvements;
- Task 4.2 produces the infrastructure financing plan for the build out of the Tivoli development and specifically sets the financing for the Capital Improvement Projects that are triggered by the development and anticipated during the first 10 years. The City and developer will define the phasing of development and the costs as identified in Task 4.1;
- Task 4.3 prepares of the Facilities Master Plan for the proposed development.
- Task 4.4 establishes the Community Facilities District formation

Task 4.1 – Preparation of a Benefit and Burden Analysis

The City will provide all of the technical studies prepared for the project's Final EIR, and Harris will review the required data on land uses that are anticipated in the Tivoli Specific Plan Area. Harris will collect from the developer, with the City's help, this land use data in electronic format. The land use data will include the development layout, irrigation areas (potable water demand), land uses, acreage, dwelling units, square footage of non-residential building space, pavement areas, and planned layout of the arterial streets and internal street network, which will be the responsibility of the project on and off-site infrastructure, as outlined in the project's Specific Plan and Draft EIR. Harris will also review the Draft Environmental Impact Report to determine all recommended mitigation measures

Harris will describe each type of capital facility that has been and will need to be constructed to serve the Tivoli Specific Plan Area. This data will be given to each of the sub-consultants to prepare the necessary reports to support the development of the Infrastructure Finance Plan

(IFP). These sub-consultants' reports will tier off the work completed for the Draft EIR by the City, and will include conceptual layouts and cost estimates of the infrastructure needed to support build-out of the development.

Based on the existing technical studies for the EIR and the new studies to support the IFP, Harris will prepare a Benefit and Burden Analysis. This analysis will define the infrastructure and cost burden that each land use will receive from the infrastructure that will be included in the IFP and detailed in the Facilities Master Plan (FMP). It will also identify the cost burden that each acre of land will have towards public facility improvements, by land use, at build-out of the development area. The benefit and burden analysis will also identify those projects that will need to be funded up-front by the developer in order to allow the development to proceed regardless of how the developer chooses to phase the construction of the project. This analysis will not define how these costs will be paid for. The analysis will be prepared for the entire development at build-out. As the project is further defined, if a phased Benefit and Burden Analysis is proposed, additional scope and consultant fees will be required.

Traffic Assessment – Omni-Means, Ltd.

Based on provided traffic model updated by Downling and Associates, Omni-Means will perform a "select link" analysis to identify traffic improvements required to mitigate the Tivoli development impact. These improvements will be determined based on existing deficiencies and the proportion of total improvements needed for new development phasing. Omni-Means will also prepare cost estimates for these mitigation projects, including cost per square foot for right-of-way acquisition. The traffic fee will be developed and applied on a cost per trip generation rate for each land use. Additionally, possible alternative funding sources will be reviewed and evaluated.

Water Capacity Study – West Yost associates (WYA)

Based on provided information regarding land use, roadway alignments, etc. WYA will model the proposed water system for project build-out. WYA will modify the existing water system hydraulic model to be representative of the new water demands of the project. This model will then be used to evaluate the potential hydraulic impacts of adding the new water demands required to serve the project on the City's existing water system. If the City's existing water system cannot meet the City's *minimum* water system design criteria with the increased demands, then WYA will make recommendations for whatever new water supply sources and/or water system infrastructure facilities will be required to mitigate the hydraulic impacts of the Project for both build-out and project phasing. WYA will prepare an estimate of the probable construction costs for the infrastructure required to provide adequate supply.

Wastewater – Carollo Engineers

Based on provided land use information, Carollo will update the hydraulic model to reflect changes in planning assumptions that have occurred since they completed the 2005 Final Wastewater Capacity Study. Carollo will revise needed sewer improvements to reflect changes in planning assumptions. The collection system and WWTP improvements will also be revised as necessary to accommodate growth based on revisions to the hydraulic model and updates to the WWTP Master Plan currently being prepared by Carollo. Carollo will develop probable construction cost estimates to reflect changes in the Capacity Study.

Storm Drain - Stantec

Based on provided land use information, existing studies, and Developer provided grading plans and detention basin plans and inverts, Stantec will define drainage sub-basin areas and perform hydrologic evaluations to determine10-year and 100-year discharges that will be generated by the development at build-out. Stantec will additionally provide peer review of the proposed dual use detention basin to access conformance to existing City guidelines.

Harris will participate in one (1) City Council presentation associated with this task, as well as three (3) meetings with staff and the developer. Harris will also set and attend meetings related to each infrastructure analysis with the sub consultants and various City departments as necessary. The Benefit and Burden analysis will define water, sewer, traffic, park, storm drainage and public and government facilities impacts.

Harris will provide ten (10) copies of the Draft Benefit and Burden Analysis for review by the City staff. Once written comments have been received, at the City's direction, a final draft will be prepared for review by the developers. At this point, Harris will try to reach consensus among the parties in order to proceed with a facility cost summary that all agree is appropriate. Twenty (20) final copies, including 1 electronic copy, will be provided to the City once all final comments have been received and incorporated.

Harris will assist the City in the preparation of the City Council staff report associated with the presentation of the Tivoli Development Benefit and Burden Analysis.

Estimated Level of Effort and Costs for Task 4.1:

Firm	Hours	Costs	Meetings in Scope
Harris - PM	460	$ 69,540	3 w/staff; 1 w/Council
West Yost - Water	180	$ 28,000	
Carollo - Wastewater	200	$ 37,500	2 w/staff
Omni-Means - Traffic	292	$ 43,660	2 w/staff
Stantec - Drainage	164	$ 18,011	2
Mark-ups on Subs		$ 12,717	
Totals	**1,296**	**$ 209,428**	

Deliverables for Task 4.1

10 copies of the draft Benefit and Burden Analysis
10 copies of a final draft of the Benefit and Burden Analysis
20 copies of the final Benefit and Burden Analysis
1 electronic copy of the final Benefit and Burden Analysis.

Task 4.2 – Infrastructure Finance Plan

After the Benefit and Burden analysis is completed and prior to beginning the Infrastructure Finance Plan or Facilities Master Plan, Harris will meet with the developer and the City to determine how all of the infrastructure project costs will be paid. These payment methods include: 1) Developer "build and dedicate", 2) condition of approval on the development mapping, 3) defined points within a development agreement, 4) part of a land secure financing district and/or 5) paid for by the development impact fees for the Tivoli development.

Harris will work with the City and developer(s) to set project phasing. Harris, the sub-consultants and the City will build upon the Benefit and Burden analysis, and shall meet with and proceed with the coordination of all Finance Plan Consultants, including City CFD staff, the Appraiser, and Bond Counsel (assumed to have separate contracts with the City) regarding assumptions upon which the Tivoli Development Project IFP shall be performed.

The purpose of the IFP will be to clearly describe what is expected to occur with regard to land uses, infrastructure costs and financing. This is an iterative process that will require consensus building among all of the stakeholders. Harris will play an integral role in generating this consensus.

The IFP will define the financing details related to water, sewer, storm drainage, traffic, public facilities and parks. For those portions of the infrastructure that are associated with impact fees being prepared by Harris or the CFD being prepared by the City, a cash flow analysis will be provided defining when each project is anticipated and can be funded.

Harris will prepare a Draft Infrastructure Finance Plan based on the Technical Analyses performed by the Sub-consultants to include for each program: a project detail sheet, the project description, the itemized project costs, the capital improvement program (CIP) numbers, a priority list of projects, and cash flow projections based upon estimated revenue from fees and debt financing.

Upon approval of the draft plan, Harris will assist City staff in two (2) City Council presentations for the IFP. The first presentation will be a public meeting to present the IFP and receive comments. The second presentation will adopt the IFP and associated Development Impact Fees for Tivoli.

Harris will assist the City in the preparation of all required City Council staff reports, resolutions and public notices associated with the adoption of the IFP.

Harris will provide ten (10) copies for City staff review. At the City's direction, Harris will complete a final draft to be presented to stakeholders.

Estimated Level of Effort and Costs for Task 4.2:

Firm	Hours	Costs	Meetings in Scope
Harris - PM	457	$ 63,250	4 w/staff; 2 w/Council
West Yost - Water	200	$ 29,500	1 w/staff
Carollo - Wastewater	128	$ 23,950	2 w/staff
Omni-Means - Traffic	208	$ 33,896	2 w/staff
Stantec - Drainage	376	$ 44,199	2
Mark-ups on Subs		$ 13,155	
Totals	**1,369**	**$ 207,950**	

Deliverables for Task 4.2

10 copies of the draft Infrastructure Finance Plan
10 copies of a final draft of the Infrastructure Finance Plan
20 copies of the final Infrastructure Finance Plan
1 electronic copy of the final Infrastructure Finance Plan.

Task 4.3 – Facilities Master Plan

Harris will prepare the Facilities Master Plan, which includes the following:

- Introduction
- Sanitary Sewer System
- Storm Drainage System
- Construction Phasing
- Opinion of Probable Cost (shown in IFP)
- Circulation System
- Potable Water System
- Parks (provided by City)

Harris will prepare the "Tivoli Facilities Master Plan". It will incorporate all of the information provided by the Sub-consultants related to infrastructure requirements. This task assumes that no aerial or field surveying is required but will be available from the other work being completed by the developer. If survey information is not available, then an additional task to provide this service will be needed.

The document will also include:

- Mitigation Measures from the EIR for Tivoli Specific Plan.
- Implementation and Funding
- Amendment Process.

This scope of work assumes that thirty (30) sheets of drawings will be created during this process.

Harris assumes that the adoption of the FMP will occur as part of the IFP process discussed in Task 4.2.

Ten (10) copies of the 30% design level drawings will be submitted to the City for review. The 30% submittal would include all drawings anticipated to be submitted and would include alignments and planned locations of all facilities. Once the City has submitted written comments to Harris, 90% drawings will be completed. Ten (10) copies of the 90% drawings will be submitted to the City for final review. The 90% submittal would include all alignments for roads and pipes including face of curb, edge of pavement, existing right-of-way, future right-of-way, and existing buildings, profiles for all roads and pipes including slopes, and elevation call-outs, cross section of roads including lane widths, landscaping widths and side walk widths, intersection details including lengths of turn lanes, lane configurations, face of curb, edge of pavement, existing right of way, future right of way, and any existing buildings and location of any planned detention basins, parks, schools, and any other pertinent facilities. The 90% would also include all notes, all call-outs, any details that are to be incorporated such as curb and gutter, sidewalk, etc. or reference to the City's design standards.

Twenty (20) copies of the final drawings, including an electronic copy, will be provided to the City when all comments have been addressed.

Task 4.3 assumes 4 meetings with the City and/or developers to discuss the drawings.

Estimated Level of Effort and Costs for Task 4.3:

Firm	Hours	Costs	Meetings in Scope
Harris - PM	1,356	$ 157,060	4 w/staff
West Yost - Water	80	$ 17,500	
Carollo - Wastewater	24	$ 5,150	2 w/staff
Omni-Means - Traffic	36	$ 5,904	2 Public
Stantec - Drainage	164	$ 21,742	2
Mark-ups on Subs		$ 5,030	
Totals	**1,660**	**$ 212,386**	

Deliverables for Task 4.3

10 copies of the 30% level drawings of the Facilities Master Plan
10 copies of a 90% level drawings of the Facilities Master Plan
20 copies of the final Facilities Master Plan
1 electronic copy of the final Facilities Master Plan

Task 4.4 – Community Facilities District

Harris will manage the formation of the Community Facilities District.

A. Goodwin Consulting Group, Inc. (GCG) will serve as special tax consultant to assist the City of Modesto (City) in the formation of a Mello-Roos Community Facilities District (CFD) that will fund public improvements and public services required to serve the Tivoli project. GCG will meet with City staff, property owners, the City's financial advisor, bond counsel and other members of the financing team to compile data, and to discuss the structure and components of the Mello-Roos cash flow analysis.

This task will include:

(i) Determining the initial boundaries of the CFD and future annexation areas both inside and outside existing City limits

(ii) Identifying proposed land uses, public facilities to be financed, annual storm drain and landscape maintenance costs, anticipated absorption rates, and timing and number of bond issues

(iii) Discussing assumptions to be used for the initial allocation of special taxes to land uses within the CFD and reviewing the advantages and disadvantages associated with various allocation methods

(iv) Evaluating the potential for separate CFDs, improvement areas or tax zones based on the objectives of the City and developers, and

(v) Coordinating with the financial advisor regarding the anticipated bond structure, including special tax/debt service escalator, bond interest rate, short-term reinvestment rate, capitalized interest, reserve fund, and other features that may affect the size of bond issues and the corresponding annual debt service.

B. Mello-Roos Cash Flow Analysis: GCG will use the information compiled to prepare an analysis of the annual cash flow of the CFD. The analysis will identify the maximum special tax that will be needed to maintain required debt service coverage on bonded indebtedness issued on behalf of the CFD.

In addition, the cash flow analysis will

(i) Estimate the special tax burden on undeveloped property based on a given absorption scenario

(ii) Determine the size of the initial and subsequent bond sales taking into consideration minimum value-to-lien requirements set forth in state law and City policy, and

(iii) Evaluate the increased bonding capacity that is created from an escalating special tax and debt service or other unique bond structure.

GCG will present the cash flow analysis at a second meeting and discuss alternatives that the working group would like analyzed. Subsequent iterations of the analysis will be prepared based on feedback from City staff, affected property owners, the financial advisor, bond counsel and other members of the working group. Ultimately, through review and discussion of each alternative, the team will select a special tax structure, which GCG will incorporate in the Rate and Method of Apportionment of Special Tax outlined below.

C. Rate and Method of Apportionment of Special Tax: Based on the special tax structure selected pursuant to Task B-2 above, GCG will prepare the Rate and Method of

Apportionment of Special Tax (RMA), which will serve as the official special tax formula for the CFD. The RMA will provide detail and direction as to how the special tax should be levied in future years to ensure adequate revenues are available for timely repayment of debt service on bonded indebtedness issued by the CFD. The RMA will be included as an exhibit to the Resolution of Intention to Form the CFD, which will be adopted by the City Council as part of the first set of actions taken towards forming the CFD.

In addition to providing guidance relative to the annual levy of special taxes in the CFD, the RMA will provide some or all of the following items:

- Identification of the maximum special tax for each special tax category, including each category of developed and undeveloped property
- Provision for a back-up special tax or alternate mechanism to be used to maintain maximum special tax revenues in the event that land uses change in future years
- A detailed prepayment formula that will provide flexibility for a property owner to prepay all or a portion of the special tax obligation after some or all bonds have been issued for the CFD
- If additional property is expected to annex into the CFD, a description of the "catch-up tax" that will apply to annexing parcels to equalize the cumulative special tax burdens (if applicable)

D. *Contributions and Review of Other CFD Formation Documents:* In coordination with Harris, the City, and Stakeholders, GCG will review, prepare and contribute to other documents required in the CFD formation proceedings. Specifically, GCG will prepare the CFD Report required, pursuant to Section 53321.5 of the Government Code, to be filed with the City Clerk prior to the public hearing. GCG will also review all CFD formation documents and, based on results of the cash flow analysis, assist in calculating the maximum bond authorization and appropriations limit for the CFD. GCG will also ensure that the CFD boundary map is consistent with the areas expected to be included in the CFD when the maximum special tax and/or bonding capacity is calculated.

E. In preparation for the issuance of bonds, GCG will review the bond purchase agreement, fiscal agent agreement and/or bond indenture to assure that the flow of special tax revenues and interest earnings as set forth in these documents are consistent with assumptions used in the Mello-Roos cash flow analysis.

In addition, GCG will review the preliminary official statement and, at the request of the financial advisor or underwriter, prepare one or more of the following:

- A table demonstrating special tax coverage based on the projected stream of revenues compared to annual debt service on the bonds
- If multiple landowners/developers are included within the CFD, a table showing diversification of special tax burdens among the major participants
- Incorporating information provided in the appraisal, a table identifying the value-to-lien ratios for each assessor parcel or major property owner

- A table summarizing a sample tax bill for individual residential units within each tax category to demonstrate compliance with City policy pertaining to the total effective tax rate
- Any other tables requested by the financial advisor and/or underwriter to assist in disclosure related to the special tax formula

F. *Certification of Special Tax Revenues and Acceptance of Associated Liability:* GCG will execute the Certificate of Special Tax Consultant, which commits to bond buyers that the minimum debt service coverage will be maintained by application of GCG's tax formula regardless of land use changes that occur within the CFD in future years.

Task 4.4 assumes 4 meetings with the City and/or developers.

Estimated Level of Effort and Costs for Task 4.4:

Firm	Hours	Costs	Meetings in Scope
Harris - PM	212	$ 24,780	4 w/staff
Goodwin Consult Grp		$ 45,000	4 w/staff
Mark-ups on Subs		$ 4,500	
Totals	**212**	**$ 74,280**	

Deliverables for Task 4.4

See items A through E above.

WEST YOST ASSOCIATES
Consulting Engineers

Exhibit "A"

December 13, 2006

Mr. Jim Bissell, P.E.
Program Manager
Harris & Associates
2850 North Tracy Blvd., Suite 200
Tracy, CA 95376

SUBJECT: Revised Proposal for Engineering Services – Evaluation of the Hydraulic Impacts of the Proposed Tivoli Project on the City's Existing Water System, and Related Engineering Support during Preparation of the FMP and IFP.

Dear Jim:

As requested, the following is West Yost Associates' (WYA) revised Scope of Work to provide Harris and Associates (HA) with limited engineering services related to evaluating the potential hydraulic impacts of the approximately 480 acre, Tivoli Development Project (Project) on the City of Modesto's (City's) existing water system. As part of these engineering services, we will provide HA with support services during preparation of the Facilities Master Plan (FMP), and provide HA with input during their preparation of the Infrastructure Financing Plan (IFP) and water system design, as limited and defined in our proposed Scope of Work.

Through our discussions with HA, it is understood that WYA will begin work on this Project after the Draft EIR has been publicly issued. Therefore, WYA has based the proposed scope and corresponding work efforts on the proposed land uses, acreages, roadway alignments, and other Project components as defined in the Draft EIR and Specific Plan. If any component in the Draft EIR or Specific Plan are modified, this will be considered a change in scope, and will require additional analysis and a budget augmentation prior to the completion of any related work products. WYA's proposed Scope of Work is as follows:

BASIC SCOPE OF WORK

Task 1: Update the Hydraulic Model and Hydraulically Analyze the System Demands of the Proposed Project (provides input to HA Task 4.1)

Based on the complete buildout of the Project water system defined in the Draft EIR (no Project phasing will be evaluated in this task), WYA will model the proposed Project water system, and modify the City's existing water system hydraulic model to be representative of the new water demands of the proposed Project. These hydraulic model system modifications will include planned distribution system pipelines and other water facilities, and the major connections to the City's existing water system necessary to meet the Project's demands. Projected demands will be distributed throughout the appropriate Project area, according to the projected land use demands.

7041 Koll Center Parkway, Suite 110 Pleasanton, CA 94566 Phone 925 426-2580 Fax 925 426-2585 e-mail: mail@westyost.com

Using this modified hydraulic model of the City's existing water system, WYA will evaluate the potential hydraulic impacts of the increased water demands and various fire flow analyses from the Project on the City's existing water system. The potential hydraulic impacts of adding the new water demands required to serve the Project on the City's existing water system will be evaluated for such criteria as, supply availability, delivery pressure, maximum water velocity and head loss in pipelines under various demand conditions (including fire flows), system pressures and system redundancy/reliability. If the City's existing water system cannot meet the City's minimum water system design criteria with the increased demands of the Project, then WYA will make recommendations for whatever new water supply sources and/or water system infrastructure facilities (consistent with the previously identified capital facilities required to serve buildout of the City's Sphere of Influence), that will be required to mitigate the hydraulic impacts of the Project. Such water facilities could include any or all of the following: new wells, water storage tanks, booster pump station, additional and/or up-sized connections into the existing City system and additional transmission pipelines, distribution and/or looping pipelines. No Project phasing will be evaluated in this task.

This initial analysis of the hydraulic impacts on the City's existing water system will then be provided to HA for review and integration with the initial technical evaluations of the other utility consultants (storm water, wastewater and transportation). Based on HA's overall Project review, there may be slight infrastructure alignments or other modifications that will be required of the recommended water system to accommodate the Project's overall infrastructure utility needs. If required, these minor water system modifications will be made, the water system re-analyzed, and infrastructure recommendations modified, if appropriate. A budget of 16 hours has been allocated to make changes requested by HA. If for whatever reasons HA's requested changes will require WYA to expend an effort beyond the 16 hour budget, a budget augmentation will be required and must be approved by HA prior to the commencement of any work efforts beyond the 16 hours.

WYA will also prepare an estimate of the probable construction cost for the water system infrastructure required to provide adequate supply, system pressures and storage at buildout of the Project to connect to the City's existing water system. This cost estimate will be tied to the San Francisco Construction Cost ENR Index.

Work Product: A 10 to 15 page Technical Memorandum (TM) describing the water system evaluation criteria, planned sources of supply, and the conceptual water system infrastructure layouts and facilities required to provide water service for buildout of the proposed Project and/or to mitigate the hydraulic system impacts of the proposed Project on the City's existing water system, will be prepared as the work product of this task (design of these facilities is outside the scope of these provided services). WYA will provide HA with a PDF electronic copy of both the draft and final TMs. Three (3) hard copies of the Draft TM, and three (3) hard copies of the Final TM will also be provided to HA for distribution to the City. WYA will also meet once with HA or the City to receive comments to the draft TM before the final TM is issued.

This technical work is intended to provide the City with an analysis of the ability of the City's existing water system to continue to provide water at adequate pressure and flow to existing customers, with the incremental additional system demands of the entire proposed Project. It does not include an evaluation of water supply availability or reliability in response to SB 610 or 221.

Task 2: Hydraulic Modeling Refinements, Project Phasing and Infrastructure Financing (provides input to HA Task 4.2)

Similar to the hydraulic analysis conducted for Project buildout as described in Task 1 above, if required, each individual Project Phase will be hydraulically evaluated to identify the water system infrastructure required to serve each Project Phase. For budgetary purposes, WYA has assumed that this Project will be evaluated in three phases which are to be specifically identified and provided to WYA by HA. Additional hydraulic analyses beyond the three initial Phasing plans provided to WYA by HA can be evaluated if a budget augmentation and schedule extension is authorized and provided in writing to WYA.

Based on our hydraulic analysis conducted in this task, WYA will prepare a short TM to address the Mitigation Fee Act (Government Code sections 6600, et seq., AB 1600), and provide the specific facts required to support the Infrastructure Finance Plan (IFP, to be prepared by HA). If requested by HA, WYA will also conduct additional hydraulic analyses up to the limited budget assumed for this task. For budgetary purposes, WYA has budgeted a total of 200 hours of engineering effort to conduct the Project phasing analysis, prepare the TM, respond to HA's comments on submitted work products and/or conduct additional, requested hydraulic modeling. Any work efforts beyond the budgeted 200 hours will only be performed after a budget augmentation has been approved by HA.

Work Product: WYA will provide HA with a PDF electronic copy of both the draft and final TMs. Three (3) hard copies of the Draft TM, and three (3) hard copies of the Final TM will also be provided to HA for distribution to the City. WYA will also meet once with HA or the City to receive comments to the draft TM before the final TM is issued.

Task 3: Provide Design Level Support (provides input to HA Task 4.3)

If requested by HA, WYA will provide additional Facilities Master Plan engineering services beyond the conceptual system layouts provided in Tasks 1 and 2, to supplement the water pipeline and water facility design efforts of HA. Because the level of required engineering support is unclear at this time, we have set aside a budget of $17,500 for a senior water systems design engineer to assist HA on an "as-needed" basis. This budget corresponds to a total of approximately 80 hours of engineering effort. Any work efforts beyond the 80 hours of budgeted time will require a budget augmentation to be approved prior to any work being conducted.

COMPENSATION

WYA will perform the Basic Scope of Work described in Tasks 1 through 3 on a time and materials basis, at the billing rates set forth in WYA's Billing Rate Schedule, for a not-to-exceed budget of $75,000. The estimated level of effort and costs associated with performing each task are summarized below.

Table 1. Estimated Level of Effort and Associated Costs

Task	Description	Labor, hours	Estimated Costs, dollars
1	Update Model and Analyze Buildout System	180	28,000
2	Hydraulic Modeling Refinements, Phasing Plan and Infrastructure Financing	200	29,500
3	Provide Limited Water System Design Support	80	17,500
	Project Contingency (@ 0%)		0
	Total Basic Scope of Work (Tasks 1-3)	**460**	**$75,000**

Any additional services not included in this Scope of Work will be performed only after receiving written authorization from HA and a corresponding budget augmentation.

Please do not hesitate to call me if you have any questions or need additional information.

Sincerely,

WEST YOST ASSOCIATES

Gerry Nakano, P.E.
Project Manager

Attachment: 2007 Billing Rate Schedule

WEST YOST ASSOCIATES
Consulting Engineers

WEST YOST ASSOCIATES, INC.

2007 Billing Rate Schedule

(Effective January 6, 2007 through December 31, 2007)*

Position	Labor Charges (dollars per hr)
Principal/Vice President	198
Engineering Manager	187
Principal Engineer/Scientist	171
Senior Engineer/Scientist	154
Associate Engineer/Scientist	138
GIS Analyst	138
Engineer II/Scientist II	121
Engineer I/Scientist I	105
Construction Manager III	149
Construction Manager II	138
Construction Manager I	127
Resident Inspector III	116
Resident Inspector II	107
Resident Inspector I	94
Sr. Designer/Sr. CAD Operator	99
Designer/CAD Operator	88
Technical Specialist II	86
Technical Specialist I	75
Engineering Aide	62
Administrative IV	88
Administrative III	77
Administrative II	66
Administrative I	55

Hourly labor rates include Direct Costs such as general computers, system charges, telephone, fax, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.

Outside Services such as vendor reproductions, prints, shipping, and major WYA reproduction efforts, as well as Engineering Supplies, Travel, etc. will be billed at actual cost plus 15%.

Mileage will be billed at the current Federal Rate.

Subconsultants will be billed at actual cost plus 10%.

Computers are billed at $25 per hour for specialty models and AutoCAD.

A Finance Charge of 1.5 percent per month (an Annual Rate of 18 percent) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

Billing rates apply to all computers and equipment, whether owned or rented by WYA, and to all employment categories including regular full-time, part-time, limited term and contract personnel as defined in WYA's Employee Handbook.

*This schedule will be updated annually

WEST YOST ASSOCIATES
Consulting Engineers

WEST YOST ASSOCIATES, INC.

2007 Billing Rate Schedule
(Cont'd.)

(Effective January 6, 2007 through December 31, 2007)*

SURVEYING AND EQUIPMENT CHARGES

Position	Labor Charges (dollars per hr)
GPS, 3-Person	303
GPS, 2-Person	259
GPS, 1-Person	204
Survey Crew, 2-Person	221
Survey Crew, 1-Person	165

EQUIPMENT CHARGES

Equipment	Billing Rate (dollars per day)	Billing Rate (dollars per week)
DO Meter	16	70
pH Meter	5	22
Automatic Sampler	120	600
Transducer/Data Logger	38	173
Hydrant Pressure Gage	11	43
Hydrant Pressure Recorder (HPR)	—	173
Hydrant Wrench	5	27
Pitot Diffuser	27	113
Well Sounder	27	113
Water Quality Multimeter	163	812
Thickness Gage	—	60

*This schedule will be updated annually

Exhibit B

March 15, 2006

Harris & Associates
2850 North Tracy Boulevard, Suite 200
Tracy, California 95376

Attention: Mr. Miller

Subject: Tivoli Proposal for Engineering Services

Dear Mr. Miller:

Below is Carollo Engineers, P.C. (Carollo) scope of work to evaluate the City of Modesto's (City) Collection System and Wastewater Treatment Plant (WWTP) impacts resulting from the 480 acre Tivoli development.

SCOPE OF WORK

Task 1: Engineering Support during the Environmental Impact Report (EIR) Process

Carollo will provide the EIR consultant with information related to the collection system or WWTP improvements required to support the Tivoli development. For budgetary purposes, a total of 60 hours of engineering effort has been assumed, including attendance at up to two meetings with the EIR consultant. Work beyond the budget for 60 hours of engineering effort will only be performed after receiving written approval of a budget augmentation.

Task 2: Revise Hydraulic Model and Analyze Collection System and Wastewater Treatment Plant Impacts

Carollo completed the 2005 Final Wastewater Capacity Study for the Proposed Tivoli Development Project (Capacity Study). This work is supplemental to previously completed work and assumes that the City of Modesto or Harris & Associates (HA) will provide the necessary development layout and land use data to complete this revision to the Capacity Study. The Capacity Study developed sewer improvements to serve the proposed project. The study also identified improvements in the collection system and at the WWTP necessary to serve future growth, including the Tivoli development. This task includes:

- Update the hydraulic model to reflect changes in planning assumptions that have occurred since the completion of the Capacity Study.
- Revise sewer and lift station improvements to reflect changes in planning assumptions
- Revise conceptual sewer layout.
- Revise the collection system and WWTP improvements necessary to accommodate growth based on revisions to the hydraulic model and updates to the WWTP Master Plan currently being prepared by Carollo.
- Update probable construction cost estimates to reflect changes in the Capacity Study.
- Evaluate the impacts to existing facilities if the Tivoli development is constructed in phases. It is assumed that HA will provide Carollo with timelines for constructing the different phases of the Tivoli development. Carollo will evaluate and propose timelines for building sewer facilities.

Consistent with the master plan, revisions to the hydraulic model will not include modeling sewer mains smaller than 10-inches in diameter. Design, including development of plan/profile drawings is

outside the scope of these services. It is assumed that HA will provide available ground elevations of the development and areas north of Claratina Avenue.

Attend meetings with HA, the City and project applicant. Carollo assumed attendance by the project manager and an engineer at up to two (2) meetings and one (1) City Council or Finance Committee meeting.

Task 3: Park Fee

Not applicable to this scope of work.

Task 4: Infrastructure Finance Plan

Provide calculations to support HA's completion of the Infrastructure Finance Plan (IFP). Information will include project summary table, project descriptions, costs, and prioritization of projects. Provide input during preparation of the IFP and comment on draft IFP. Prepare for and attend meetings with HA, the City and project applicant. Carollo assumed attendance by the project manager and an engineer at up to two (2) meetings. For budgetary purposes, Carollo budgeted a total of 128 hours of engineering effort for assisting in the preparation of the IFP and attending meetings.

Task 5: Facilities Master Plan Review

Review Facilities Master Plan prepared by others. For budgetary purposes, Carollo budgeted a total of 24 hours of engineering effort for reviewing the wastewater collection system and treatment plant component of the Facilities Master Plan.

DELIVERABLE

Carollo will provide HA with a draft, final draft, and final report summarizing Tasks 1, 2 and 4. This report will be brief and serve as an amendment to the Capacity Study. Five (5) hard copies and a 'pdf' file of each submittal will be provided.

ESTIMATED FEE

The fee estimate to complete Tasks 1 through 5 is attached.

Should you need additional information, or have questions regarding this proposal, please do not hesitate to call us.

Sincerely,

CAROLLO ENGINEERS, P.C.

Mike J. Britten, P.E.
Partner

Tony A. Akel, P.E.
Associate

MJB/TAA:cjp

Enclosures: Fee Estimate

City of Modesto

Tivoli Development Facility Master Plan

Fee Estimate for TO No. 1

	Task Description	Hours by Classification							Costs	
		Senior Professional	Lead Project Professional	Project Professional	Assistant Professional	Senior Technician	Support Staff	Total Hours	Labor Costs	Total Cost
Task 1	EIR Engineering Support	30	20	10	0	0	0	60	$12,760	$13,400
Task 2	Revise Improvements	32	32	72	38	16	10	200	$34,970	$37,500
Task 3	Park Fee (Not Applicable)	0	0	0	0	0	0	0	$0	$0
Task 4	Infrastructure Finance Plan	20	24	48	28	0	8	128	$22,530	$23,950
Task 5	Facilities Master Plan Review	8	4	12	0	0	0	24	$4,900	$5,150
Total		90	80	142	66	16	18	412	$75,160	$80,000

Exhibit C

omni · means
ENGINEERS · PLANNERS

December 7, 2006

Jim Bissell
Harris and Associates
2850 North Tracy Boulevard, Suite 200
Tracy, CA 95376

RE: PROPOSAL – Tivoli Facilities Master Plan and Infrastructure Financing Plan – Traffic Support

Dear Jim:

In response to your request, OMNI-MEANS is pleased to submit this proposal to assist Harris and Associates in the preparation of the traffic element of the Tivoli Facilities Master Plan and Infrastructure Financing Plan. We have reviewed your overall scope of work for the project as well as the Traffic Impact Assessment for the Tivoli Specific Plan and understand your overall goals for this project.

The attached presents our Project Understanding, Scope of Work, schedule and budget.

Thank you for the opportunity to be a part of the Harris team and we look forward to working with you and the other team members on this key development project in the City of Modesto.

Sincerely,

OMNI-MEANS, Ltd.
Engineers & Planners

Martin R. Inouye
Senior Vice President

MRI/SAM
P3570scp005.doc

PROJECT UNDERSTANDING

Upon review of the Tivoli Specific Plan, its EIR and its traffic assessment, OMNI-MEANS has an understanding of the proposed development project and its off-site traffic impacts and required transportation mitigation measures. In review of the traffic assessment, in addition to the identification of needed phased on-site transportation infrastructure, much off-site improvements will likely be needed as well. Over 60 intersections and many roadway segments were studied in the traffic assessment identifying many traffic impacts requiring mitigation. Additionally, with a study of interim conditions in 2012 and 2017, traffic impacts on phased project conditions are also understood such that improvement phasing and financing can better be planned.

Our prior experience in updating the "Street Projects Fee" for the Capital Facilities Fee Program of the City of Modesto will also be an immense help in identifying preliminary designs of required mitigation improvements and in the preparation of the cost estimates. Already 16 of the 60 intersections understudy for the Tivoli project have been studied within the Citywide traffic fee update.

To prepare the benefit and burden traffic analysis, the Citywide traffic model updated by Dowling and Associates is required and will need to be provided to OMNI-MEANS. From the updated traffic model, through "select link" analysis, the portion of Tivoli traffic on the area street system can be identified as well as its proportion to the total increase in new development traffic. Connecting this analysis with the associated costs for transportation improvements, a preliminary fee can then be estimated.

Once the benefit and burden of the Tivoli project has been determined from the above analysis, using the development phasing analysis, a transportation finance plan can then be determined. Through the project phasing and the estimation of the generation of traffic fees, one can then determine the adequacy of funds from the fee program to timely fund and construct improvements when they are in fact needed. If sufficient funds can not be generated prior to the need of all of the required transportation and other infrastructure improvements, then a menu of other financing options, like assessment district or CFD financing, need to be explored, studied and negotiated to finalize a specific finance plan.

SCOPE OF WORK

TASK 1 PROJECT COORDINATION, ENVIRONMENTAL ASSISTANCE AND MEETINGS.

1.1 Project Management Services.
OMNI-MEANS will perform the following project coordination services:

- **OMNI-MEANS will attend** four (4) Staff/Steering Committee meetings, including the Project Initiation Meeting and two (2) hearings total before either Planning Commission and/or City Council, as required.
- **Coordinate** and **monitor** progress of the study and design elements for **conformance** with **City and State standards** with other infrastructure elements of the Facilities Master Plan and Financing Plan.
- Prepare and present study progress and findings at Staff/Steering Committee, Task Force and/or hearings throughout the project, including final adoption public hearings before the Planning Commission and City Council.
- Participate in, as directed, Staff/Steering Committee (SC) meetings, composed of representatives of City officials, staff and project developers. These meetings with staff and the SC will occur on a regular basis throughout the study process.

TASK 2 DATA COLLECTION AND PROJECT IDENTIFICATION

2.1 Data Collection.
The following data collection effort relative to the preparation of the facilities master plan and financing plan will be conducted to obtain a firm understanding of the current traffic fees that are collected within the City.

- Obtain the updated Citywide traffic model prepared by Dowling and Associates associated with the preparation of the traffic impact assessment for the Tivoli Specific Plan and EIR.
- Review assumptions utilized in the City's traffic model, such as trip generation rates for various types of land uses and Levels of Service for City roadway facilities.
- Review any updates to City design standards for the preparation of the preliminary improvement plans and their associated cost estimates.

2.2 Existing Deficiencies and Transportation Mitigation Improvement Requirements.
Based on the Traffic Impact Assessment prepared by Dowling and Associates, OMNI-MEANS will use the traffic impact analysis to determine existing deficiencies and required phased transportation mitigation improvements. Therefore, required improvements will be identified for existing, 2012, 2017 and 2025 traffic conditions.

TASK 3 PROJECT COST ESTIMATES, TRAFFIC MODELING AND FEE CALCULATION.

3.1 Preliminary Cost Estimates of Mitigation Improvements.
Opinions of cost for required mitigation improvements identified in Task 2.2 will be developed using current local unit costs. For the mitigation improvements, available aerial photography will be used to identify major features that could drastically influence the cost estimates. Right-of-way cost estimates will also be developed based on the City's experience with right-of-way acquisition and rough estimates of needed right-of-way. Right-of-way costs will be estimated from assessor information on per square foot basis and not on the basis of property appraisals.

These unit cost estimates are intended to provide only a "ballpark" cost that can be reasonably used for capital improvement programming, but should not be considered detailed cost estimates based on engineering design.

3.2 Review Alternative Funding Sources, including the CFF Fee.
Within this task, OMNI-MEANS will review and evaluate with the City the issue of fee credit for mitigation improvements already in the City's CFF fee program and the likelihood of obtaining Federal and/or State transportation funding assistance for these proposed improvement projects. Based on this review and discussion with StanCOG, the City will provide OMNI-MEANS direction, identifying the allocation of cost that will be funded through other sources, including the Capital Facilities Fee for Street Projects and other State and Federal sources, if any. Understanding the presumption of use of other funding sources, this task will identify the net balance of transportation improvement cost needing to be covered by the Tivoli financing plan.

3.3 Calculate Tivoli Traffic Fee.
Based on the analyses conducted in Tasks 3.1 through 3.2, an appropriate cost allocation methodology for the mitigation improvements list will be determined and calculated. OMNI-MEANS would use and run, as required, the (Dowling) updated traffic model to document projected deficient LOS locations throughout the City transportation system and establish benefit/burden of the Tivoli project through the use of the "select-link" module of the Citywide traffic model. Through the use of this "select link" analysis, the benefit/burden of mitigation improvements assigned to the Tivoli project as a proportion of the projected overall increase in traffic can be calculated. Upon identification of a per trip cost, a Tivoli traffic fee for each land use category will be calculated by applying the cost per trip determined above to the assigned trip generation rate (DUE) for each land use.

3.4 Tivoli Development Financing Plan, including Phasing of Capital Improvement Needs.
Preparing the Tivoli traffic facilities improvements program is critical to the successful implementation of needed circulation improvements. Our approach is to identify the improvement cost estimates for the entire plan area, including the anticipated threshold of need and timing, and then meet with the City Finance Department to review anticipated revenues over time. This will provide the ability to identify potential surpluses and shortfalls over time through the development of the project. Once this is completed we will then determine the overall economics and feasibility of funding the required facilities with the available resources within the fiscal constraints and recommended financing options. With Tivoli development

phasing information, adequacy of fee funding can be determined during the interim phasing years of 2012 and 2017. If Tivoli traffic fee generation does not keep ahead or at minimum, keep pace to fully fund needed transportation improvements, other funding options will be explored, including community facility district (CFD) or assessment district financing.

TASK 4 - TECHNICAL REPORT DOCUMENTATION, INCLUDING MITIGATION IMPROVEMENTS, BENEFIT/BURDEN ANALYSIS AND FEE CALCULATION, AND APPROVAL HEARINGS.

4.1 Technical Report Documentation.

This Technical Report will present and document all transportation improvements needs, associated costs, prioritized list of improvements and the traffic impact fee methodology. The report will provide a clear discussion of how the fees were calculated, the facilities and costs included in the calculation, and the use of other funding sources, if any.

For the preliminary cost estimates, at minimum, the following documentation will be provided:

- Project description
- Project location map
- Assumptions
- ROW requirements
- Estimate with the following information:
    - Line item description
    - Unit of measure
    - Quantity
    - Unit price
    - Total item price
    - Contingency
    - Design costs
    - Construction administration costs

The report will also identify the cost allocation methodology used to determine the fee amounts. Detailed display maps will be prepared graphically illustrating this data. All appropriate revisions obtained, as a part of previous Staff/SC meetings will be incorporated into the final version of this comprehensive Technical Report Documentation that will fully document the entire process. The report will be submitted as a part of the overall Tivoli Facilities Master Plan and Infrastructure Financing Plan to City staff for their review and comment prior to presentations to the Planning Commission and City Council.

4.2 Public Approval Hearings.

To enact the Tivoli Facilities Master Plan and Infrastructure Financing Plan, City Council must vote for their adoption. Up to two (2) public hearings have been budgeted. Presentations will be in support of Harris and Associates to City Council and will be as directed by City staff and Harris and Associates. If needed, OMNI-MEANS will be available to participate in additional public hearings and/or meetings as directed and additionally authorized in writing.

SCHEDULE AND BUDGET

OMNI-MEANS is prepared to work within a six month project schedule to achieve a draft technical documentation report. Beyond the preparation of the draft report, OMNI-MEANS will work within a schedule as set forth to meet and finalize the Facilities Master Plan and Infrastructure Financing Plan.

Our budget for the above scope of work is estimated as $83,460. Beyond the four (4) City staff/Steering Committee meetings and the two (2) public hearings, any additional meetings or analysis not defined in our scope of work are considered additional and will require additional written authorization and budget to be performed.

Proposal Worksheet

Work Item	Principal $204	Project Engineer $180	Traffic Engineer $146	Technical Staff $94	SP Clerical $61	Outside Services	Hours	*Total Cost*
PROJECT COORDINATION, ENVIRONMENTAL ASSISTANCE AND MEETINGS							0	$0
Project Coordination Services.	28				4	$200	32	$6,156
DATA COLLECTION AND PROJECT IDENTIFICATION							0	$0
Data Collection.	4	8	8				20	$3,424
Existing Deficiencies and Transportation Mitigation Improvement Requirements.	12		40				52	$8,288
PROJECT COST ESTIMATES, TRAFFIC MODELING AND FEE CALCULATION.							0	$0
Preliminary Cost Estimates of Mitigation Improvements.	8	60	40	80			188	$25,792
Review Alternative Funding Sources, including the CFF Fee.	12						12	$2,448
Calculate Tivoli Traffic Fee.	12	32					44	$8,208
Tivoli Development Financing Plan, including Phasing of Capital Improvement Needs	32	8	16				56	$10,304
TECHNICAL REPORT DOCUMENTATION, INCLUDING MITIGATION IMPROVEMENTS, BENEFIT/BURDEN ANALYSIS AND FEE CALCULATION, AND APPROVAL HEARINGS.							0	$0
Technical Report Documentation.	8	24	16	40	8	$400	96	$12,936
Public Approval Hearings.	12	12		8	4	$300	36	$5,904
Subtotal	128	144	120	128	16		536	
	$26,112	$25,920	$17,520	$12,032	$976	$900		$83,460

EXHIBIT D-1

SCOPE OF WORK
FOR ASSISTANCE WITH THE
TIVOLI STORM DRAINAGE FACILITY PLAN

The Consultant will assist Harris and Associates by preparing the storm drainage element of the Tivoli Facility Plan. The Tivoli Specific Plan area consists of approximately 480 acres located in the Roselle/Clarabel Comprehensive Planning District in northeast Modesto. Stantec has been working with the City of Modesto to prepare other documents that will be valuable resources in completing the Facility Plan. The documents include:

- Draft Storm Drainage Master Plan, July 2003
- Draft Northeast Area Offsite Watershed Storm Drainage Evaluation, March 2005
- Tivoli Specific Plan Storm Drainage Assessment, January 2006

A significant amount of background data has been collected and is included in these documents. However, the documents have all been prepared at a broader level for the overall Tivoli Specific Plan area, with no breakdown of the project into smaller storm drainage components or areas. It will be important for the Facility Plan to incorporate additional onsite detail to ensure that each sub-area within the Tivoli Specific Plan will be served by the overall storm drainage system and provide a complete listing and cost for trunk storm drainage facilities. Services to be provided by the Consultant as a part of the Storm Drainage Facility Plan include the tasks outlined below.

Task 1 Data Collection
The majority of the field reconnaissance and data collection has already been completed as a part of the reports listed above. However, the following information will be needed from the developer to lay out a drainage infrastructure plan: *grading plan and detention basin grades and inverts.*

Task 2 Hydrologic Evaluations
Initial definition of drainage sub-basin areas will be performed based on land use areas, grading plan, topographic mapping, and the current site plan dated November 16, 2005. A combination of empirical calculations (Rational Equation) and hydrologic modeling (HEC-HMS) will be completed to determine 10-year and 100-year discharges that will be generated by development of the overall Specific Plan Area at buildout.

Task 3 Drainage Infrastructure Plan
A storm drainage infrastructure plan will be formulated for the overall Specific Plan Area, with storm drains being sized to convey a 10-year storm discharge and detention basins being sized for a 100-year routed storm volume. According to the draft Storm Drainage Master Plan (SDMP) prepared by Stantec dated October 2006, the Specific Plan Area is coincident with Sub-basin 98. The terminal elements of the storm drainage facilities that may serve this sub-basin have been initially formulated and include a single detention basin, a pump station, and a force main discharge to the MID Lateral No. 6 to the north per the draft SDMP.

The drainage infrastructure developed as part of the Facility Plan will replace the infrastructure identified in the Draft SDMP. This is likely to include additional detention facilities in order for gravity systems to be used to drain to them, though additional pumping facilities will also be needed to serve additional detention basins. One or more of the detention basins that will be proposed to serve the Specific Plan Area are expected to be dual use facilities. The drainage infrastructure plan prepared for the Specific Plan Area will include storm drainage provisions to serve each land use parcel; however, onsite storm drainage infrastructure for individual parcels will not be developed and are assumed to be the responsibility of individual developers to design and construct. Unique requirements associated with the storm drainage solutions (such as the execution of a drainage agreement with MID) will be identified. Stantec will work with MID staff to determine if they have any special requirements that should be factored into the cost of storm drainage infrastructure.

The storm drainage system will also need to include the elements of an initial phase of the offsite improvements recommended in the Northeast Area Offsite Watershed Storm Drainage Evaluation (March 2005). Interim provisions to accommodate offsite runoff derived from the remaining undeveloped portion of the Roselle/Clarabel Comprehensive Planning District and offsite runoff derived from areas east of the railroad (in the absence of a constructed initial phase of offsite improvements) will not be included in the drainage infrastructure plan and are considered to be an onsite cost.

The Drainage Infrastructure Plan will include a conceptual storm drainage system. The conceptual layout will include pipe and detention pond locations and sizes. It is assumed that the developer's engineer will provide a grading plan. Through the program manager, the Consultant will adjust alignments of storm drainage facilities to better conform with other infrastructure elements. This scope of work includes the initial infrastructure plan and one revision. Additional revisions will be provided under a separate scope of work.

Should there be significant land use modifications that result in changes to the site hydrology, additional technical analysis will be required under a separate scope of work.

Task 4 Preliminary Opinion of Probable Cost

A preliminary opinion of probable cost will be prepared for the construction of the storm drainage elements contained in the drainage infrastructure plan. The preliminary opinion of probable cost will include quantity take-offs and costs for individual items of construction and estimated costs for required right-of-way, drainage easements, and drainage agreements. Mark ups of these costs will also be included to accommodate requirements for design and planning, construction management, program implementation and contingency.

Task 5 Phase 1 Analysis

A Phase 1 task is included to determine the storm drainage requirements associated with the possible development of a portion of the Specific Plan Area as a first phase of implementation. The elements of the drainage infrastructure plan for the overall Specific Plan Area that will need to be constructed or provided for the Phase 1 development will be identified, as well as any requirements that are unique to Phase 1 implementation.

Task 6 Impact Fee Calculations
Storm drainage impact fees will be calculated for the overall Specific Plan Area on a "per acre" basis for the applicable land use categories based on a "percent impervious" approach that relates proportional funding responsibility to runoff production characteristics. The impact fees will allocate the overall cost of implementation of the drainage infrastructure plan to the various land uses and areas represented on the Specific Plan based on their weighted runoff production characteristics.

Task 7 AB 1600 Assessment (Mitigation Fee Act)
Findings relevant to compliance with provisions of the Mitigation Fee Act will be prepared to support the proposed impact fees.

Task 8 Technical Report
The results of work associated with completing all of the above tasks will be summarized in a Technical Report that will provide written descriptions, maps and calculations that represent and support the elements of the drainage infrastructure plan for the overall Specific Plan Area. The Technical Report will be submitted at initial Draft, Final Draft, and Final stages of completion. It is anticipated that two months will be needed to complete the initial Draft Technical Report. The Final Draft and Final Technical Reports will be completed within three weeks of receiving comments.

Task 9 Coordination
Extensive coordination is expected to be required as a component of preparing the Technical Report. Coordination is assumed to include participation in formal meetings with the City and stakeholders scheduled by Harris and Associates and a City Council presentation. Separate meetings with MID staff or Stanislaus County staff may also be needed if they are not included in the stakeholder meetings. A total of six meetings are included in this scope of work.

Task 10 FIP Support
Additional technical support will be provided to the City and Harris and Associates to interpret storm drainage conclusions and priorities to assist the Harris and Associates in preparing a Financing and Implementation Plan for required Specific Plan Area infrastructure.

Task 11 Environmental Impact Report Assistance
The draft Environmental Impact Report (EIR) has been completed by the City's Environmental Consultant. The Consultant will assist the City and their Environmental Consultant with responding to comments on the hydrology and water quality section of the draft EIR as requested.

Task 12 Dual Use Detention Basin Peer Review
The Consultant will perform a peer review of the proposed dual use detention basin(s) to assess overall conformance with the City's Dual Use Detention Basin guidelines. This peer review will consist of a memorandum containing specific comments and participation in a meeting, if appropriate.

Fee Estimate

Work described herein will be completed on a time and materials basis for a not-to-exceed fee of $84,000 in conformance with the Billing Rate Schedule provided on Exhibit B.

Stantec

Exhibit D-2
Estimated Fees For *Harris and Associates*
Tivoli Storm Drainage Facility Plan

Task	Task Description	Jim Nelson / Senior Consultant	Sarah Mathey / Project Manager	Staff Engineer	Drafting Technician	Landscape Architect									Total Cost
	Rate	$150	$144	$91	$74	$150									
		Estimated Hours													
1	Data Collection		4												$576
2	Hydrologic Evaluations		16	40	4										$5,248
3	Drainage Improvement Plan		24	32	24										$8,960
4	Preliminary Opinion of Probable Cost	8	8	20											$4,172
5	Phase 1 Analysis	20	40	60	16										$15,404
6	Impact Fee Calculations	8	16												$3,504
7	AB 1600 Assessment / Mitigation Fee Act	4	8	8											$1,752
8	Technical Report	20	40	60	40										$18,000
9	Construction	40	8	32	16										$12,812
10	PP Support	16	8												$3,552
11	Environmental Impact Report Assistance	8	8	8											$3,000
12	Dual Use Scale Peer Review	2				20									$4,800
	Total Hours	134.0	180.0	276.0	84.0	20.0									

Base Labor Fee	$91,852
Disbursements (Expenses)	$2,100
Sub-Consultants	
Contingency	$0
Total Cost	$93,952

EXHIBIT E-1

Harris & Associates Estimation of Man-hours and Costs for Task 4 of the Modesto Tivoli Development Project

	Steve Roberts $ 190	Jim Bissell $ 190	Dennis Anderson $ 180	Alison Bouley $ 160	Project Engineer $ 100	Admin $ 75	Hours		Total
Task 4.1 Benefit Burden Analysis									
Review DEIR/FEIR/tech documents	4	12	8	16					
Draft Report	8	48	16	24	80	8	184	$	25,960
Final Report	8	32	4	16	28	4	92	$	13,980
Coord/mtgs w/ staff and sub-consultants	8	60		16	24	4	112	$	18,180
Council / and Developer Presentations	8	24		24	12	4	72	$	11,420
Subtotal for Harris	32	164	20	80	144	20	460	$	69,540
West Yost & Associates							180	$	28,000
Carollo Engineers							200	$	37,500
Omni-Means							292	$	43,660
Stantec							164	$	18,011
Subtotal Sub consultants							836	$	127,171
Sub Consultant Mark-up at 10%								$	12,717
Task 4.1 Totals	32	164	20	80	144	20	1,296	$	209,428
Task 4.2 - Finance Plan									
Define First Phase Land Use	2	4			16	2	24	$	2,890
Review Available Funding Mechanisms	2	6	4	12	16	2	44	$	5,910
Impact fee determination	2	4		8	28		42	$	5,220
Cash Flow Analysis	2	4	2	8	16		32	$	4,380
Capital Improvement Program	2	4		8	24		38	$	4,820
Draft report	4	24		12	40	8	90	$	11,840
Coord/meet with developers and City staff	8	40	4	12	24	4	92	$	14,460
Final Finance Plan	2	16	2	8	16	2	46	$	6,810
City Council Presentations	8	12	1	4	20	4	49	$	6,920
Subtotal for Harris	32	114	13	72	200	22	457	$	63,250
West Yost & Associates (b)							200	$	29,500
Carollo Engineers							128	$	23,950
Omni-Means							208	$	33,896
Stantec (a)							376	$	44,199
Subtotal Sub consultants							912	$	131,545
Sub Consultant Mark-up at 10%								$	13,155
Task 4.2 Totals	32	114	13	72	200	22	1,369	$	207,950
Task 4.3 - Facilities Master Plan									
Assumes 30 drawings	8	40		160	960	40	1,208	$	133,720
Meetings and Coordination	16	40		60	28	4	148	$	23,340
Subtotal for Harris	24	80	0	220	988	44	1,356	$	157,060
West Yost & Associates (c)							80	$	17,500
Carollo Engineers							24	$	5,150
Omni-Means							36	$	5,904
Stantec							164	$	21,742
Subtotal Sub consultants							304	$	50,296
Sub Consultant Mark-up at 10%								$	5,030
Task 4.3 Totals	24	80	0	220	988	44	1,660	$	212,386
Task 4.4 - Community Facilities District									
Boundary Map	0	9		35	90	12	150	$	17,210
Meetings and Coordination	8	16		16	0	6	62	$	7,570
Subtotal for Harris	8	25	0	51	90	18	212	$	24,780
Goodwin Consulting Group								$	45,000
Subtotal Sub consultants								$	45,000
Sub Consultant Mark-up at 10%								$	4,500
Task 4.4 Totals	8	25	0	51	90	18		$	74,280

Totals Tasks 1-4	$ 704,043

a Stantec's optional task 5 has been included in these totals
b West Yost Optional Task 6 has been included in this number
c West Yost Optional Task 7 has been included in this number

EXHIBIT E-2

Anticipated Schedule for the Completion of the IFP and FMP for the Tivoli Development

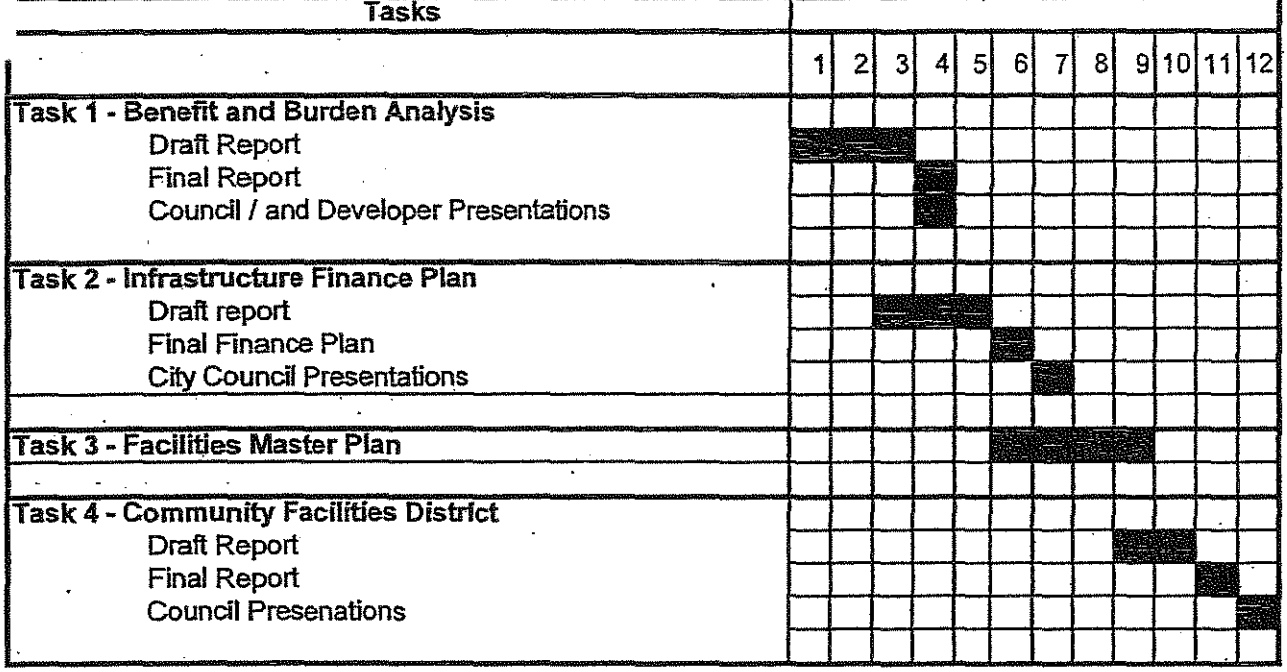


EXHIBIT F

Harris & Associates

RANGE OF HOURLY RATES:
DESIGN AND PUBLIC WORKS SERVICE GROUPS

Effective January 1 – December 31, 2006

ENGINEERING DESIGN AND PUBLIC WORKS SERVICES GROUPS	HOURLY RATE
Jim Bissell, P.E.	$190
Steve Roberts, P.E.	$190
Dennis Anderson, P.E.	$180
Alison Bouley, P.E.	$160
Project Directors	$170-240
Project Managers	$120-190
Project Engineers	$80-160
Construction Manager	$120-190
Administration	$50-90

Notes:

1. These individuals include professionals and support personnel who might work on Harris projects. Support personnel include technicians and administrative staff.
2. Rates are subject to adjustment due to promotions during the effective period of this schedule. A new rate schedule will become effective and apply to this contract on January 1, 2007.
3. Unless otherwise indicated in the agreement, hourly rates include most direct costs such as vehicle usage and mileage, equipment usage (including computer and telephone), and printing and copying (except large quantities such as construction documents for bidding purposes).
4. Billing rates for independent contractors and hourly employees are determined on a case-by-case basis.

Exhibit "C"

Anticipated Expenses

		Harris	30% staff time	Subtotal
	Benefit Burden			
4.1	**Analysis**	$ 209,428	$ 62,828	$ 272,256
4.2	**IFP**	$ 207,950	$ 62,385	$ 270,335
4.3	**FMP**	$ 212,386	$ 63,716	$ 276,102
	subtotal	$ 629,764	$ 188,929	**$ 818,693**
4.4	**CFD**	$ 74,280.00	$ 22,284.00	*To be funded at a later date*

Received		% of overall expenses		
12/06	**Newman**	37.5%		$ 300,000
			Remaining	***$ 518,693***
3/07	**Trombetta**	62.5%		$ 500,000
		100%	TOTAL FUNDED	$ 800,000
			Remaining Unfunded staff time*	***$ 18,693***

* Note: This is a time and materials contract with Harris which includes an anticipated 30% for staff time. If the additional $18,693 is needed, the applicants will need to then advance additional funds, per the terms of the agreement and the percentages shall be adjusted accordingly.

Updated: 3/20/2007

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-182

A RESOLUTION APPROVING AMENDMENT NO. 4 TO THE AGREEMENT BETWEEN THE CITY OF MODESTO AND TURNSTONE CONSULTING CORPORATION FOR THE RESPONSES TO COMMENTS AND THE PREPARATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT AND FOR ADDITIONAL WORK PERFORMED ON THE PREPARATION OF THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE TIVOLI SPECIFIC PLAN (FORMERLY ROSELLE NEIGHBORHOOD), AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO EXCEED $202,497

WHEREAS, Dave Romano, P.E/AICP, of Russell A. Newman P.L.C., has applied for a specific plan, referred to as the Tivoli (formerly Roselle Neighborhood) Specific Plan, to allow for the orderly and future development within the approximate 454-acre planning area bounded by Sylvan Avenue on the south, the extension of Claratina Avenue on the north, Roselle Avenue on the east and Oakdale Road on the west, and

WHEREAS, the Tivoli Specific Plan will also involve the following associated entitlements: prezoning to a Specific Plan-Overlay (SP-O) Zone; Annexation of the project site into the City of Modesto including approval by the Local Agency Formation Commission; adoption of a specific plan; a General Plan Amendment to 1) reclassify two sites consisting of approximately 67 acres from Village Residential to Regional Commercial, 2) allow Village Residential designation in TSP to exceed the recommended 5.1 units per gross acre, 3) allow commercial development for the Village Residential designation in TSP to exceed the recommended 4%, 4) allow for the TSP neighborhood center focus that combines a neighborhood park and elementary school, 5) reclassify Claratina Avenue from Oakdale Road to Roselle Avenue from a four-lane Expressway to a Principal Arterial with a Class I bike path, 6) reclassify Sylvan Avenue from east of

Oakdale Road to Roselle Avenue from a Principal Arterial to a Minor Arterial, 7) amend Oakdale Road from Sylvan Avenue to Claribel Avenue as a Principal Arterial to include Class 2 Bike Lanes, one lane on each side of the street; adoption of a Facilities Master Plan and a Infrastructure Finance Plan for the Tivoli Specific Plan area; formation of a Community Facilities District to fund the construction of "backbone" public infrastructure, maintenance of applicable public facilities, and applicable public services; approval of a Development Agreement to guide development within the Tivoli Specific Plan area; and subsequent entitlements, including abandonment of a portion of Mable Avenue, approval of Area Plans , Final Development Plans, tentative maps, Conditional Use Permits, and other City entitlement approvals, and

WHEREAS, Section 21080.1 of the California Public Resources Code requires the City of Modesto, as lead agency, to make a determination of whether an environmental impact report is required for projects, and

WHEREAS, the City has determined that an environmental impact report is required for the proposed Tivoli Specific Plan project and related applications, and

WHEREAS, by Resolution No. 2002-622, adopted on December 10, 2002, the City Council approved a list of environmental service providers, including the firm of Turnstone Consulting Corporation, to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Turnstone Consulting Corporation to prepare the environmental impact report for the Tivoli Specific Plan because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, the City Council adopted Resolution Number 2005-014 on January 4, 2005, approving an agreement with Turnstone Consulting Corporation for the preliminary work on the Environmental Impact Report for the Tivoli Specific Plan, and

WHEREAS, the City Council adopted Resolution Number 2005-184 on April 26, 2005, approving Amendment No. 1 to the agreement with Turnstone Consulting Corporation for the Biological Study and Traffic Study for the Tivoli Specific Plan, and

WHEREAS, the City Council adopted Resolution Number 2005-502 on October 11, 2005, approving Amendment No. 2 to the agreement with Turnstone Consulting Corporation for the preparation of the Draft Environmental Impact Report on the Tivoli Specific Plan, and

WHEREAS, the City Council adopted Resolution Number 2006-156 on March 28, 2006, approving Amendment No. 3 to the agreement with Turnstone Consulting Corporation for the preparation of a market analysis on the proposed regional commercial development for the Tivoli Specific Plan Environmental Impact Report, and

WHEREAS, City staff has negotiated a scope of work for a fourth amendment to the contract, to provide the responses to comments and the preparation of the Final Environmental Impact Report for the Tivoli Specific Plan in an amount not to exceed $162,797.

WHEREAS, during preparation of the Draft EIR issues arose that required additional analysis and services beyond the scope of Amendment No. 2 to the Agreement, requiring a further amendment to the Agreement for additional work performed on the Draft EIR in the amount of $33,200.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 4 to the Agreement between the City of Modesto and Turnstone Consulting Corporation to provide the responses to comments and the preparation of the Final Environmental Impact Report for the Tivoli Specific Plan in an amount not to exceed $169,297 and for additional tasks performed related to the preparation of the Draft EIR for the Tivoli Specific Plan, in the amount of $33,200 for a total of $202,497, copies of which are on file in the City Clerk's office.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment No. 4 to the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-183

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF LIQUID CHLORINE AND LIQUID SODIUM HYPOCHLORITE TO PIONEER AMERICAS, LLC OF WALNUT CREEK, CA FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $25,205.20.

WHEREAS, the Public Works Department-Water Quality Control (WQC) Division has

requested the purchase of liquid chlorine, and

WHEREAS, the Public Works Department-Water Division has requested the purchase of

liquid sodium hypochlorite, and

WHEREAS, WQC uses liquid chlorine (CL2) during river discharge season from

October 1st through May 31st, and

WHEREAS, liquid chlorine is utilized at the Jennings Road facility to chlorinate and

disinfect the City's final effluent to the San Joaquin River, as required in the City's permit, and

WHEREAS, the Water Division uses liquid sodium hypochlorite to disinfect the

domestic water supply as specified by water purveyors permit issued by the California

Department of Health Services, and

WHEREAS, on October 24, 2006, Council approved Resolution No. 2006-662

authorizing the Purchasing Manger to issue a Request for Bid (RFB) for the purchase of liquid

chlorine and liquid sodium hypochlorite for the Public Works Department-Water Division and

the Water Quality Control Division for a two (2) year agreement, with three (3) one-year

extension options, at the sole discretion of the City, and

WHEREAS, on January 12, 2007, the Purchasing Division issued Request for Bid No.

0607-08 for the purchase of liquid chlorine and liquid sodium hypochlorite to six (6)

prospective bidders, of which none were local companies, posted the bid on the City's web site,

and formally advertised as required by law, and

WHEREAS, on February 13, 2007, bids were formally opened in the City Clerk's office,

and six (6) prospective bidders, three (3) chose to respond to the RFB, and

WHEREAS, based on being deemed the lowest responsive and responsible bidder, City

staff recommends the award of bid and contract for liquid chlorine and liquid sodium

hypochlorite to Pioneer Americas, LLC of Walnut Creek, CA for a two (2) year agreement, with

three (3) one-year extension options, at the sole discretion of the City, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases

which meet or exceed $50,000 for materials, equipment or contractual servies to be formally bid,

and

WHEREAS, the award of bid and contract for the purchase of liquid chlorine and liquid

sodium hypochlorite conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto

that it hereby authorizes the award of bid and contract for the purchase of liquid chlorine

and liquid sodium hypochlorite to Pioneer Americas, LLC of Walnut Creek, CA for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City, for a total estimated annual cost of $25,205.20.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue purchase agreements for the purchase of liquid chlorine and liquid sodium hypochlorite to Pioneer Americas, LLC of Walnut Creek, CA for a two (2) year agreement, with three (3) one-year extension options, at the sole description of the City, for a total estimated annual cost of $25,205.20.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-184

A RESOLUTION REJECTING ALL BIDS AND AUTHORIZING THE PUCHASING MANAGER TO RE-ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF WATER QUALITY CONTROL LABORATORY EQUIPMENT (PHASE 1) FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION, AT AN ESTIMATED TOTAL COST OF $342,750

WHEREAS, currently, the Public Works Department, Water Division brings drinking water samples to the Water Quality Control-Lab for testing, and

WHEREAS, the Water Quality Control-Lab also analyzes stormwater and NPDES samples (wastewater and river waters) per permit regulations, and

WHEREAS, some of these samples are sent to an outside lab for analysis, and

WHEREAS, by purchasing new equipment, most of these tests will be performed in-house, reducing expenditures and response time for the Water Division and the Water Quality Control-Lab, and

WHEREAS, the following is a list of equipment that the Water Quality Control Lab plans to purchase during Phase 1:

- Benchtop Gas Chromatograph/Mass Spectrometer (GC/MS)
- Gas Chromatograph
- Inductively Coupled Plasma Mass Spectrometer
- AutoSampler-AutoInjector, and

WHEREAS, with the addition of this equipment and after certification by the Department of Health, staff anticipates future revenues from an increased ability to perform additional tests in-house for other outside divisions, agencies, and cities, and

WHEREAS, on May 2, 2006, Council approved Resolution No. 2006-270 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of water quality control laboratory equipment (Phase 1) for the Public Works Department, Water Quality Control Division, and

WHEREAS, on June 13, 2006, the Purchasing Division issued Request for Bid No. 0506-28 for the purchase of water quality control laboratory equipment, and

WHEREAS, on July 18, 2006, RFB's were formally opened in the City Clerk's office, and

WHEREAS, two (2) companies chose to respond, and

WHEREAS, one company did not include the Bid Acknowledgement, **Exhibit A**, with their bid submittal, which is a requirement, and

WHEREAS, the company's bid was disqualified and received no consideration, and

WHEREAS, the second company did not submit pricing using the Addenda Pricing Schedule, **Exhibit "B"**, and

WHEREAS, the equipment bid was not representative of the laboratory equipment described in the RFB Addenda, and

WHEREAS, the company's bid was disqualified and received no consideration, and

WHEREAS, staff determined both bids were non-responsive and non-responsible and recommends both bids be rejected, and

WHEREAS, staff recommends the Purchasing Manager be allowed to re-issue a formal RFB for the purchase of water quality control laboratory equipment (phase 1) for

the Public Works Department Water Quality Control Division, at an estimated total cost of $342,750, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Bid for the purchase of water quality control laboratory equipment conforms to code,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. The two bids received for the purchase of water quality control laboratory equipment are hereby rejected.

SECTION 2. The Purchasing Manager is hereby authorized to re-issue a formal Request for Bid for the purchase of water quality control laboratory equipment.

SECTION 3. The City Clerk is hereby authorized to call for public competitive sealed bids for the purchase of water quality control laboratory equipment, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 4. After the sealed bids are opened, they shall be tabulated and analyzed by the Purchasing Division and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-185

A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown in **Schedule A**.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Schedule A

Personnel Department

Airport Fund Reimbursement

From:	General Liability Reserve Acct #7330-800-8000-8003	$(9,550)
To:	Airport Reserve Acct #6310-800-8000-8003	$ 9,550

City Manager's Office

Charter Review

From:	General Fund Reserve Account #0100-800-8000-8003	$(45,000)
To:	City Manager Account #0100-020-0201-0235	$ 45,000

Community Facilities District

CFD #1998-2/Storm Drain

From:	Contingency Reserve Acct #2670-800-8000-8003	$(6,025)
To:	CFD Landscape Services Acct #2670-020-0203-0231	$ 1,000
	CFD City Services Acct #2670-020-0203-0255	$ 5,025

Public Works Department

Project #X549/Reimbursement to Developer

From:	Project Acct #2691-020-X744-6052	$(58,780)
To:	Project Acct #2691-020-X549-6030	$ 58,780

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-186

A RESOLUTION APPROVING THE PURCHASE OF A BUILDING PERMIT MODULE FOR THE CITY'S INTERACTIVE VOICE RESPONSE (IVR) SYSTEM FROM SELECTRON TECHNOLOGIES OF PORTLAND, OREGON FOR A TOTAL ESTIMATED COST OF $95,000.

WHEREAS, on July 1, 2003, the City Council by Resolution No. 2003-336 authorized the award of bid to Selectron Technologies for an Interactive Voice Response (IVR) System, and

WHEREAS, the Building and Development Services Division of the Community and Economic Development Department and the Information Technology Department are seeking to add a building permits module to the City's existing Interactive Voice Response (IVR) System, and

WHEREAS, the Building and Development Services Division of the Community and Economic Development Department, the Information Technology Department, and the Purchasing Division of the Finance Department have evaluated a price quote from Selectron Technologies for the building permit module, and

WHEREAS, funds were originally budgeted in 2001 in the Building and Development Services Division operating budget, and then transferred to the reserve fund to allow for the purchase, upgrade and training costs for the Tidemark and IVR systems, and

WHEREAS, funds for the purchase of the IVR system are held in the Information Technology Fund reserve,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of the Building Permit Module for the City's

Interactive Voice Response (IVR) System from Selectron Technologies of Portland, Oregon for a total estimated cost of $95,000.

BE IT FURTHER RESOLVED by the Council that the City Manager, or his designee, is hereby authorized to execute a purchase agreement for the purchase of a Building Permit Module for the City's Interactive Voice Response System from Selectron Technologies of Portland, Oregon for a total estimated cost of $95,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-187

A RESOLUTION AMENDING THE FY 2006-2007 OPERATING BUDGET TO TRANSFER $95,000 FROM ACCOUNT NUMBER 7130-800-8000-8003 TO ACCOUNT NUMBER 7130-070-0742-5400 FOR THE PURCHASE OF A BULIDING PERMIT MODULE FOR THE INTERACTIVE VOICE RESPONSE SYSTEM.

WHEREAS, on July 1, 2003, the City Council by Resolution No. 2003-336 authorized the award of bid to Selectron Technologies for an Interactive Voice Response (IVR) System, and

WHEREAS, the Building and Development Services Division of the Community and Economic Development Department and the Information Technology Department are seeking to add a building permits module to the City's existing Interactive Voice Response (IVR) System, and

WHEREAS, the Building and Development Services Division of the Community and Economic Development Department, the Information Technology Department, and the Purchasing Division of the Finance Department have evaluated a price quote from Selectron Technologies for the building permit module, and

WHEREAS, funds were originally budgeted in 2001 in the Building and Development Services Division operating budget, and then transferred to the reserve fund to allow for the purchase, upgrade and training costs for the Tidemark and IVR systems, and

WHEREAS, funds for the purchase of the IVR system are held in the Information Technology Fund reserve,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006-2007 operating budget to transfer $95,000 from account number 7130-800-8000-8003 to account number 7130-070-0742-5400.

BE IT FURTHER RESOLVED that the Finance Director, or designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-188

A RESOLUTION AMENDING THE 2006/2007 BUDGET TO APPROPRIATE $23,578 FROM THE PD RECORDS AND SUPPORT DIVISION 0100-190-1921-0110 TO THE INFORMATION TECHNOLOGY NETWORK DIVISION 7130-070-0743-0110 TO FULLY FUND THE REALLOCATION OF ONE SOFTWARE ANALYST II/III

WHEREAS, a Software Analyst II position resides in PD Records and Support Div. (Org. 1921), and

WHEREAS, this position is dedicated to support the Modesto Police Department (MPD) for information technology needs, and

WHEREAS, the request has been made to reallocate one Software Analyst I/II (434) in the PD Records and Support Division (Org. 1921) to one Software Analyst I/II/III (438) in the Information & Technology Department Network Division (Org. 0743)s, and

WHEREAS, this request was reviewed and approved by Police Department management staff, and

WHEREAS, this reallocation request is made based upon departmental needs and changing workload demands, and

WHEREAS, this reallocation request will centralize and standardize Information Technology Department resources, assist in meeting the growing support requirements for the City, and provide the opportunity for career growth for staff assigned to this function, and

WHEREAS, annualized salary and benefits for the Software Analyst II position (Range 434) are currently budgeted in the amount of $98,264 in the PD Records and

Support Division (Org. 1921) and are requested to be transferred to the Information Technology Network Division (Org. 0743) for FY 07-08,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the 2006/2007 budget to appropriate $23,578 from the PD Records and Support Division 0100-190-1921-0110 to the Information Technology Network Division 7130-070-0743-0110 to fully fund the reallocation of one Software Analyst II/II.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: SAWood
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-189

ADOPT A RESOLUTION APPROVING A NEW SCHEDULE "A" AGREEMENT TO THE MUNICIPAL MASTER LEASE WITH DELL MARKETING L.P., FOR INFORMATION TECHNOLOGY HARDWARE PRODUCTS AND SERVICES FOR A PERIOD OF 48 MONTHS FOR THE ESTIMATED AMOUNT OF $40,019.88 PER YEAR, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE NEW SCHEDULE "A" AGREEMENT. THE TOTAL AMOUNT OF THE LEASE AGREEMENT IS ESTIMATED AT $160,079.52

WHEREAS, in 1998 the City established a Technology and Equipment Replacement Fund (TERF) for the purpose of replacing obsolete technology equipment, and

WHEREAS, in 1999 the City went through a formal bid process to establish a computer standard throughout the city, and

WHEREAS, Dell Marketing was the lowest responsive and responsible bidder to the formal bid process, and

WHEREAS, in March 2003 the City entered into a Municipal Master Lease Agreement with Dell Marketing L.P. for Information Technology (IT) Hardware Products and Services, and

WHEREAS, in August 2006 the City approved a new Schedule "A" Agreement to the Municipal Master Lease with Dell Marketing L.P. extending the term of the Lease for 48 months, and

WHEREAS, IT views this program as a cost effective measure for the City, emphasizing reduction of the Total Cost of Ownership (TCO) for the City's technology equipment and helping streamline the City's technology refresh program that affects all departments, and

WHEREAS, Dell Marketing has been providing personal computers to the City for the past seven years, and

WHEREAS, during that time the City has received Dell contractual pricing by taking advantage of the Western States Contracting Alliance (WSCA) pricing, and

WHEREAS, WSCA is a coalition of fifteen western states which was formed as a means by which participating states could join together to receive cost effective pricing on personal computers based on economies of scale, and

WHEREAS, the City routinely requires replacements, acquisitions and upgrades to existing city computer equipment inventory, and

WHEREAS, the funding for said computer equipment is approved and budgeted in the Technology and Equipment Replacement Fund (TERF), and

WHEREAS, the City is desirous of continuing to acquire computer equipment using the existing Municipal Master Lease Agreement with Dell Marketing L.P. for Information Technology Hardware Products and Services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Schedule "A" Agreement to the Municipal Master Lease Agreement with Dell Marketing L.P. and authorizes the City Manager, or his designee, to execute a new Schedule "A" Agreement to the Municipal Master Lease Agreement with Dell Marketing L.P. for Information Technology hardware products and services for a period of 48 months at an estimated cost of $160,079.52.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-190

A RESOLUTION APPROVING A REQUEST FROM EVENT PRODUCTIONS AND PUBLICATIONS FOR AMPLIFIED MUSIC AT MANCINI BOWL FOR AN INTERNATIONAL WEDDING FESTIVAL, TO BE HELD ON AUGUST 5, 2007, FROM 11:00 A.M. TO 7:00 P.M.

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a request Event Productions and Publications for amplified music at Mancini Bowl for an International Wedding Festival, to be held on August 5, 2007, from 11:00 a.m. to 7:00 p.m., and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval, and

WHEREAS, at its March 5, 2007, meeting, the Safety and Communities Committee supported approval of this request,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from Event Productions and Publications for amplified music at Mancini Bowl for an International Wedding Festival, to be held on August 5, 2007, from 11:00 a.m. to 7:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-191

A RESOLUTION APPROVING A REQUEST FROM JOHN BLACK OF JB SPECIAL EVENTS AND PROMOTIONS FOR AMPLIFIED MUSIC AT MANCINI BOWL FOR A MODESTO BLUES FESTIVAL EVENT TO BE HELD ON JUNE 23, 2007, FROM 11:00 A.M. TO 7:00 P.M.

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a request from John Black of JB Special Events and Promotions for amplified music at Mancini Bowl for a Modesto Blues Festival event to be held on June 23, 2007, from 11:00 a.m. to 7:00 p.m., and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval, and

WHEREAS, at its March 5, 2007, meeting, the Safety and Communities Committee supported approval of this request,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from John Black of JB Special Events and Promotions for amplified music at Mancini Bowl for a Modesto Blues Festival event to be held on June 23, 2007, from 11:00 a.m. to 7:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-192

A RESOLUTION APPROVING A REQUEST FROM STANISLAUS PRIDE CENTER FOR AMPLIFIED MUSIC AT MANCINI BOWL FOR A STANISLAUS PRIDE DAY, TO BE HELD ON JUNE 30, 2007, FROM 2:00 P.M. TO 8:00 P.M.

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a request from Stanislaus PRIDE Center for amplified music at Mancini Bowl for a Stanislaus PRIDE Day, to be held on June 30, 2007, from 2:00 p.m. to 8:00 p.m., and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval, and

WHEREAS, at its March 5, 2007, meeting, the Safety and Communities Committee supported approval of this request,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from Stanislaus PRIDE Center for amplified music at Mancini Bowl for a Stanislaus PRIDE Day, to be held on June 30, 2007, from 2:00 p.m. to 8:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007- 193

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE-SOURCE PROCUREMENT FOR LEASE/PURCHASE OF A DIAMOND Z 5000 HORIZONTAL GRINDER, WITH PREVENTIVE MAINTENANCE, FOR CITY OF MODESTO COMPOST FACILITY

WHEREAS, the City of Modesto operates a Compost Facility at 7007 Jennings Road, and

WHEREAS, the operation of the Compost Facility is a critical component of the City's AB 939 plan, which mandates the reduction of disposal and requires the City to divert 50% or more of its waste from disposal, and

WHEREAS, a grinder is an essential piece of equipment in producing compost, and

WHEREAS, the grinder currently used at the Compost Facility has met its life expectancy, is dangerous to operate, cannot process large quantities of mixed paper, and the engine recently failed, and

WHEREAS, on April 4, 2006, by Resolution No. 2006-193, the City Council authorized the Purchasing Division to issue a Request for Bids (RFB) for the lease/purchase of a horizontal grinder to replace the current tub grinder at the City's Composting Facility that has become unreliable and costly to keep operational, and

WHEREAS, based on the observation of various grinders under field conditions, staff developed bid specifications for the RFB, including: a downward turning mill; feed roller that lifts out 90 degrees and locks in place allowing the employees to work without

crouching and eliminating the danger posed by working below the feed roller; and fluid coupler power transfer system, and

WHEREAS, following the issuance of the RFB and the bidders conference, Purchasing and Solid Waste staff determined that only one manufacturer, Diamond Z, could meet these safety/ergonomics and performance specifications in addition to the other bid specifications, and

WHEREAS, replacement of the existing grinder is critical to compost operations, and

WHEREAS, funds are budgeted in the FY 2006-2007 Compost Facility Budget ($104,000 in account number 6290-355-5222-0451, Principal Retirement, and $24,000 in account number 6290-355-5222-0452, Interest Expense) for this purpose, and

WHEREAS, the Citizen's Advisory Committee on Recycling has recommended that once the City's Compost Facility has purchased its new horizontal grinder, which will be capable of processing mixed paper and other organics along with green waste, the City should conduct an aggressive public education campaign to encourage residents to put other organics such as food waste, newsprint, magazines, phone books, junk mail, computer paper, paper napkins and towels, and cardboard in the green waste container for composting,

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that the Council hereby authorizes the Purchasing Manager to conduct a sole-source procurement for lease/purchase of a Diamond Z 5000 horizontal grinder, with preventative maintenance, for City of Modesto Compost Facility, for a total estimated cost over 5 years of $600,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-194

A RESOLUTION AMENDING THE FY 06-07 CAPITAL IMPROVEMENT PROGRAM (CIP) TO: REDUCE EXPENDITURES IN PROJECT 8910-310-N441 BY $2,000,000 AND INCREASE EXPENDITURES IN PROJECT 8910-310-P844 BY $2,000,000 FOR CONSTRUCTION OF PHASE 1.2 IN THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL

WHEREAS, the Parks, Recreation and Neighborhoods Department, on behalf of the Tuolumne River Regional Park Joint Powers Authority began a project to plan for the future development of the Tuolumne River Regional Park (TRRP) when the Joint Powers Authority of the City of Modesto, City of Ceres and Stanislaus County adopted the TRRP Master Plan in December 2001, and

WHEREAS, the Gateway Parcel is one of six planning areas addressed in the TRRP Master Plan, and

WHEREAS, the TRRP Commission envisions the Gateway Parcel to be a high-profile public gathering place close to the commercial centers of Modesto and Ceres and accessible to the rest of the region along major arterial streets and State Route (SR) 99, as defined in the TRRP Master Plan, and

WHEREAS, On February 13, 2007, the Modesto City Council adopted Resolution No. 2007-109 allocating $1,000,000 of Park Funds for the TRRP Gateway Parcel Phase 1.2, and

WHEREAS, on February 13, 2007, the County of Stanislaus also authorized the amount of $1,000,000 to be used for the TRRP Gateway Parcel Phase 1.2, and

WHEREAS, the funding was allocated to project 8910-310-N441, and in order to better reflect the current project account, the monies should be allocated to project 8910-310-P844,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 06-076 Capital Improvement Program (CIP) to reduce expenditures in Project 8910-310-N441 by $2 million and increase expenditures in Project 8910-310-P844 by $2 million.

BE IT FURTHER RESOLVED that the Finance Director or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-195

A RESOLUTION PRE-AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE AN AGREEMENT FOR CONSULTANT SERVICES WITH MERCER HEALTH AND BENEFITS LLC IN THE AMOUNT OF $48,000.

WHEREAS, the City desires to obtain the services of Mercer Health and Benefits LLC (Mercer) to provide retiree health program design and analysis, and

WHEREAS, the City desires to enter into an Agreement for Consultant Services with Mercer in the total amount of $48,000 which includes professional fees and expenses, and

WHEREAS, Mercer is specially trained, experienced and competent to provide retiree health program consulting for the City, and

WHEREAS, the public interest, economy and general welfare will be served by this agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby pre-authorizes the City Manager or his designee to execute an "Agreement For Consultant Services" with the firm of Mercer Health and Benefits LLC in the amount of $48,000 with respect to providing retiree health program design services.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that said Agreement may be amended, if needed, by mutual consent of the parties, provided that total fees and expenses do not exceed $75,000.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 27th of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-196

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AMENDED EMPLOYMENT AGREEMENT WITH JUDITH E. RAY TO CONTINUE TO SERVE AS DEPUTY CITY MANAGER.

WHEREAS, Judith E. Ray and the City of Modesto entered into an employment agreement on June 7, 2005, under authority of Resolution No. 2005-285, and

WHEREAS, Judith E. Ray has been serving as Deputy City Manager since June 7, 2005, and

WHEREAS, Section 900 of the City's Charter provides that the City Manager of Modesto, California, shall appoint the Deputy City Manager, in the Unclassified Service, to serve at the pleasure of the City Manager for an indefinite term, and may remove the Deputy City Manager at his pleasure, and

WHEREAS, the City desires to enter into an amended employment agreement with Judith E. Ray to continue to serve as Deputy City Manager of the City of Modesto and to provide the terms and conditions by which City shall continue to retain the service of Judith E. Ray at an annual salary of $144,552.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to sign an amended employment agreement with Judith E. Ray to continue to serve as Deputy City Manager of the City of Modesto. Said amended employment agreement is attached hereto as **Exhibit A** and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

AMENDED EMPLOYMENT AGREEMENT

This Amended Employment Agreement, made and entered into this 27th day of March, 2007 by and between the CITY OF MODESTO, State of California, a municipal corporation, hereinafter called, "CITY" and JUDITH E. RAY, hereinafter referred to as "EMPLOYEE," both of whom understand as follows:

R E C I T A L S:

WHEREAS, EMPLOYEE and CITY entered into an employment agreement on June 7, 2005 under authority of Resolution No. 2005-285, and

WHEREAS, EMPLOYEE has been serving as Deputy City Manager since June 7, 2005, and

WHEREAS, Section 900 of the CITY's Charter provides that the City Manager of Modesto, California, shall appoint the Deputy City Manager, in the Unclassified Service, to serve at the pleasure of the City Manager for an indefinite term, and may remove the Deputy City Manager at his pleasure, and

WHEREAS, it is the desire of the parties hereto to provide the terms and conditions by which CITY shall retain the service of EMPLOYEE and to provide for her to remain in such employment, and

WHEREAS, it is the desire of the parties hereto to amend the employment agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree to amend the previous agreement in its entirety as follows:

Section 1. Duties

CITY hereby agrees to employ said Judith E. Ray as Deputy City Manager of said CITY to perform the functions and duties specified in the attached job description.

Section 2. Term

a. Effective March 27, 2007, EMPLOYEE shall continue employment as Deputy City Manager in the Unclassified Service, at the salary set forth herein and shall serve in this capacity until such time as EMPLOYEE terminates or resigns from the position of Deputy City Manager.

b. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the City Manager to terminate the services of EMPLOYEE at any time, subject only to the provisions set forth in Section 3, below.

c. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of EMPLOYEE to resign at any time from her position as Deputy City Manager, subject only to the provisions set forth in Section 3, below.

Section 3. Termination

a. Notwithstanding any contrary provision of the Modesto Municipal Code and/or Personnel Rules of the City of Modesto, in the event the City Manager elects to terminate this agreement on or before October 7, 2007, said EMPLOYEE shall have reinstatement rights to the classification of Deputy Director of Public Works, provided that such termination is for reasons other than good cause.

b. In the event EMPLOYEE voluntarily resigns from the position of Deputy City Manager on or before October 7, 2007, EMPLOYEE shall have reinstatement rights to the classification of Deputy Director of Public Works.

c. Termination of this agreement by either party after October 7, 2007 shall not provide for reinstatement to the classification of Deputy Director of Public Works or to any other position in the Classified Service.

Section 4. Salary and Benefits

a. CITY agrees to pay EMPLOYEE for her services rendered pursuant to this agreement a monthly base salary of $12,046.00, payable in the installments at the same time as other employees of the CITY are paid. In addition, EMPLOYEE shall be granted salary increases within the salary range established by the City Council, based on merit and fitness as determined by the City Manager.

b. EMPLOYEE shall be eligible for all benefits currently authorized by the City Council for non-sworn Executive employees, and as such benefits may be amended from time to time by Council.

Section 5. Notices

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage pre-paid, addressed as follows, or as such address may be changed from time to time upon notice to the other:

CITY:
City Manager
City of Modesto
1010 Tenth Street
P. O. Box 642
Modesto, CA 95353

EMPLOYEE:
Judith E. Ray
924 Gina Court
Escalon, CA 95320

Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed

given as of the date of the personal service or as of the date of deposit of such written notice in the course of transmission in the United State Postal Service.

Section 6. General Provisions

a. The text herein shall constitute the entire agreement between the parties.

b. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of EMPLOYEE.

c. This agreement shall become effective commencing the 27th day of March, 2007.

d. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2007-196, adopted by the Council of the City of Modesto on the 27th day of March, 2007, and EMPLOYEE has caused this Agreement to be duly executed.

CITY OF MODESTO

By: _____
GEORGE W. BRITTON
City Manager

ATTEST:

By: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EMPLOYEE:

_____
JUDITH E. RAY

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-197

A RESOLUTION AUTHORIZING THE CITY MANAGER, UPON THE RECOMMENDATION OF THE POLICE CHIEF, TO USE UNCLAIMED BICYCLES, IN THE POSESSION OF THE MODESTO POLICE DEPARTMENT, TO BE REFURBISHED BY THE PLEASANT VALLEY STATE PRISON IN COALINGA, CALIFORNIA AND RETURNED TO THE DONATING ORGANIZATION, FRIENDS OF MODESTO POLICE YOUTH ASSOCIATION (FMPYA), FOR DISTRIBUTION TO UNDERPRIVILEGED CHILDREN AND CHILDREN AT RISK FOR JUVENILE DELINQUENCY.

WHEREAS, Pleasant Valley State Prison in Coalinga, California offers a program of bicycle refurbishing, and

WHEREAS, Modesto Municipal Code Section 2-7.06 authorizes the City Manager to have unclaimed bicycles repaired and turned over to any charitable or nonprofit organization to participate in a program or activity designed to prevent juvenile delinquency, and

WHEREAS, the bicycles are to be returned to the Friends of Modesto Police Youth Association (FMPYA), a 501c3 (non-profit) organization, for distribution to underprivileged children and children at risk for juvenile delinquency, and

WHEREAS, the Modesto Police Department feels that by providing refurbished recycled bicycles to at risk children, via FMPYA, the program is able to meet its primary objective, which is to reduce juvenile delinquency in our community, and

WHEREAS, the benefit to the children far outweighs the potential revenue of the bicycles if they were sold at auction, and

WHEREAS, based upon the successful first test of the program, FMPYA and the Police Department are seeking recommendation to continue the program indefinitely, and

WHEREAS, staff will prepare an annual report to the Safety and Communities Committee on the status of the bicycle refurbishing/donation program, and

WHEREAS the fiscal impact of the bicycles not sold at auction would be a minimal loss of revenue to the City and the benefit to the children far outweighs the potential revenue of the bicycles if they were sold at auction, and

WHEREAS at its March 5, 2007 meeting, the Safety and Communities Committee approved the recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, upon the recommendation of the Police Chief, to use unclaimed bicycles, in the possession of the Modesto Police Department, to be refurbished by the Pleasant Valley State Prison in Coalinga, California and returned to the donating organization, Friends of Modesto Police Youth Association (FMPYA), for distribution to underprivileged children and children at risk for juvenile delinquency.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-198

A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE BY THE ASSIGNED MODESTO POLICE DEPARTMENT CANINE HANDLER, OFFICER BONGIORNO, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT WITH THE OFFICER FOR PURCHASE OF HIS POLICE CANINE.

WHEREAS, the Police Chief for the City of Modesto, from time to time, officially retires police canines from departmental service, and

WHEREAS, City of Modesto police canine handler, Officer Bongiorno, wishes to purchase and assume possession of his assigned canine, Randy, upon the dog's official retirement, and

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of City of Modesto police canines by their assigned department handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Officer Bongiorno for the purchase of his retired police canine, Randy, in the amount of One Dollar ($1.00) as more fully set forth in the Modesto Police Department Canine Transfer Contract attached hereto as **Exhibit "A"** and incorporated herein by this reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT, made and entered into in the City of Modesto, State of California, this **27th** day of **March, 2007**, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and Bradly Bongiorno, canine handler for the Modesto Police Department, hereinafter referred to as "HANDLER".

Facts:

Canine "Randy" has been with the Modesto Police Department since September of 2001. "Randy" has served the city for over five years. "Randy" was born in 1999 and will be eight years old in 2007. "Randy" has had a long and distinguished career as a narcotic detection dog. "Randy" has been unable to work for over six months and has reached an age where he is slowing down. It would not be feasible to retrain and recertify him. His ability to continue to do police work is diminishing and it is my recommendation he be retired from service.

This **AGREEMENT** is made with regard to the following recitals:

A. *HANDLER* wishes to assume ownership and take possession of that certain retired City of Modesto police canine named "Randy". *HANDLER* was previously the assigned canine handler for "Randy".

B. *HANDLER* wishes to maintain ownership of the above-referenced dog, and the CITY wishes to divest itself of both ownership and vicarious or direct liability for the subject dog.

C. CITY does hereby agree to relinquish all of its right, title and ownership interest in said dog whatsoever, effective upon *HANDLER's* execution and return of this document and payment of the sum of one and no/100ths dollars ($1.00) to the City of Modesto.

NOW, THEREFORE, in consideration of this AGREEMENT, the parties hereto agree as follows:

1. *HANDLER* does agree to assume ownership of the Modesto police canine named "Randy", and to assume any and all risks, including, but not limited to, risk of injury or death to third persons, and to hold CITY, its police department, and its employees and/or agents or volunteers harmless from any and all liability, claims, administrative proceedings or other responsibility whatsoever arising from any injuries or damages that may occur on or after the date ownership of the dog is transferred pursuant to this AGREEMENT. That date is hereby fixed by agreement by and among the parties hereto as being **March 27, 2007**.

2. *HANDLER* further agrees to assume all liability for risks and dangers relating to his/her ownership of the subject police dog on and after the aforementioned date, and to indemnify and hold CITY harmless in the event that any legal or administrative action, whether by claim, demand or otherwise, is made by any person or entity as a consequence of or arising out of any event, act or disturbance involving the subject police dog on or after the date ownership is transferred. These hold harmless provisions shall extend to any direct or vicarious liability arising from any and all losses, liabilities, charges (including reasonable attorney fees and court costs), and any other expenses whatsoever which may arise in any manner after the new owners assumption of ownership on the date identified herein.

3. *HANDLER* must retain ownership of "Randy" for at least eighteen (18) months prior to any sale of the aforementioned retired police canine.

4. The retired police canine "Randy" shall revert to CITY should the purchaser, *HANDLER* determine he/she can no longer care for the aforementioned dog within the period of

time commencing on the date of this AGREEMENT and ending eighteen (18) months from the date fixed by this AGREEMENT.

5. *HANDLER* acknowledges that he/she has read the foregoing AGREEMENT and understands that it is contractual in nature and understands each of its provisions.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has caused this Agreement to be executed in duplicate by its City Manager and attested by its City Clerk under authority of Resolution No. 07-____ adopted by the City Council of the City of Modesto on the 27th day of March, 2007.

NEW OWNER

_____

Bradly Bongiorno, Handler

CITY OF MODESTO

_____

George W. Britton, City Manager

ATTEST:

By_____
Jean Morris, City Clerk

APPROVED AS TO FORM:

By_____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-199

A RESOLUTION APPROVING THE PROJECT, INCLUDING PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "2006 ADA CURB RAMP CONSTRUCTION", ACCEPTING THE LOW BID AND APPROVING A $175,936.00 CONTRACT WITH BDS CONSTRUCTION, INC., AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled "2006 ADA Curb Ramp Construction" and City staff recommends approval by the City Council, and

WHEREAS, the bids received for "2006 ADA Curb Ramp Construction" were opened at 11:00 a.m. on February 27, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $175,936.00 received from BDS Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to BDS Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of BDS Construction, Inc., in the amount of $175,936.00, and hereby awards BDS Construction, Inc., the contract titled "2006 ADA Curb Ramp Construction."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-200

A RESOLUTION APPROVING A CONTRACT WITH HOLDREGE & KULL FOR THE PROJECT TITLED "GEOTECHNICAL STUDY AT CHLORINATION FACILITY," LOCATED AT THE JENNINGS ROAD SECONDARY TREATMENT PLANT IN AN AMOUNT NOT TO EXCEED $70,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, the Secondary Treatment Facilities, located at Jennings Road, utilizes chlorine gas to disinfect the treated wastewater effluent prior to dechlorination and discharge to the San Joaquin River, and

WHEREAS, disinfection of the effluent is required as a condition of the City's wastewater discharge permit and is necessary to ensure that no potentially disease-causing microorganisms are in the water being discharged to the river, and

WHEREAS, during the spring floods of 2006, staff observed the ground sinking (subsidence) at the equipment pad for the Chlorination Facility at the Jennings Treatment Plant, and

WHEREAS, numerous sand boils and seeps occurred due to the 2006 San Joaquin River spring storm flows, and

WHEREAS, the sloping ground supporting an exposed portion of the 48" diameter loop pipeline is prone to seepage and small slides in the area have occurred in the past, and

WHEREAS, City staff requests a geotechnical study at the Chlorination Facility be performed for the following:

1) Evaluate the likely cause of the sand boils and ground subsidence,
2) Evaluate stability of the levee,

3) Assess subsurface conditions in the vicinity of the exposed section of loop pipeline, and
4) Develop mitigation measures for ground subsidence and for long-term stabilization of the levee,

and

WHEREAS, this project was approved as part of the FY 06-07 Capital Improvement Program, CIP #B824 Geotechnical Study at Chlorination Facility with a funding amount of $83,000, and

WHEREAS, a request for bids was sent to seven (7) Geotechnical Consultants for this project, and three bids were received, and

WHEREAS, after evaluating all three proposals, staff has determined that the proposal from Holdrege & Kull demonstrates the greatest understanding of conditions and potential corrective measures, and

WHEREAS, funds are budgeted in CIP Account 6210-480-B824-6010 Geotechnical Study at Chlorination Facility,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the contract with Holdrege & Kull for the project titled "Geotechnical Study at Chlorination Facility," located at the Jennings Road Secondary Treatment Plant in an amount not to exceed $70,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-201

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED, "LEFT-TURN LANE EXTENSION ON BRIGGSMORE AVENUE AT MCHENRY AVENUE," ACCEPTING THE BID, AND APPROVING A $124,966.20 CONSTRUCTION CONTRACT WITH TEICHERT CONSTRUCTION FOR THE PROJECT, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Left-turn Lane Extension on Briggsmore Avenue at McHenry Avenue," project and City staff recommends approval to the City Council, and

WHEREAS, in fiscal year 2005 Congestion Mitigation and Air Quality (CMAQ) grants became available to reduce pollution and improve air quality, and

WHEREAS, the "Left-turn Lane Extension on Briggsmore Avenue at McHenry Avenue" project along with other projects are eligible for the CMAQ funds, and

WHEREAS, this project will add extra storage capacity for the left-turn lane to help prevent motorists turning left from blocking through motorists, and

WHEREAS, the bids received for this project were opened on January 9, 2007, and later tabulated by the Public Works Director for consideration of the Council, and

WHEREAS, the Public Works Director recommends the bid of $124,966.20 received from Teichert Construction be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled, "Left-turn Lane Extension on Briggsmore Avenue at McHenry Avenue," accepts the bid of Teichert

Construction in the amount of $124,966.20 and hereby awards Teichert Construction the contract titled, "Left-turn Lane Extension on Briggsmore Avenue at McHenry Avenue."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-202

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE MODESTO IRRIGATION DISTRICT (MID) AND THE CITY OF MODESTO TO GRANT A 10' BY 10' EASEMENT FOR THE NEW POLE LOCATION AND RELOCATE AND MODIFY TWO EXISTING UTILITY POLES AT A COST NOT TO EXCEED $65,700 TO ACCOMMODATE THE PROJECT, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, in fiscal year 2005 Congestion Mitigation and Air Quality (CMAQ) grants became available to reduce pollution and improve air quality, and

WHEREAS, the "Left-turn Lane Extension on Briggsmore Avenue at McHenry Avenue" project along with other projects were eligible for the CMAQ funds, and

WHEREAS, an existing MID utility pole is located within the proposed left-turn lane and needs to be relocated, and

WHEREAS, this utility pole carries the 124KV to the sub-station for distribution, and

WHEREAS, the two utility poles on either side of the relocated utility pole need to be modified to accommodate additional strain,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the Modesto Irrigation District (MID) and the City of Modesto to grant a 10' by 10' easement for the new pole location and relocate and modify existing utility poles at a cost not to exceed $65,700 to accommodate the project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-203

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH DAVID EVANS AND ASSOCIATES, INC., FOR ENGINEERING DESIGN SERVICES IN THE NOT-TO-EXCEED AMOUNT OF $234,186, FOR THE "CONSTRUCTION OF THREE DEDICATED RIGHT-TURN LANES AT: 1) SISK ROAD ONTO CARPENTER ROAD OVERPASS, 2) CARPENTER ROAD OVERPASS ONTO NORTHBOUND ROUTE 99 ON-RAMP, 3) ORANGEBURG AVENUE ONTO BRIGGSMORE AVENUE" PROJECT, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, the City sent a Request For Qualifications (RFQ) for Engineering Design services to Civil Engineering firms that had previously indicated an interest in providing services to the City, and

WHEREAS, eight consulting firms were asked to provide a proposal on various projects and were interviewed by City staff, and

WHEREAS, David Evans and Associates, Inc., was considered to be the most qualified for engineering design services for the project "Construction of Three Dedicated Right-turn Lanes at: 1) Sisk Road Onto Carpenter Road Overpass, 2) Carpenter Road Overpass Onto Northbound Route 99 On-ramp, 3) Orangeburg Avenue Onto Briggsmore Avenue," in accordance with Administrative Directive 3.1, and

WHEREAS, the Public Works Director recommended that David Evans and Associates, Inc., be accepted as the most qualified Engineering Consulting firm for Engineering Design services for the project "Construction of Three Dedicated Right-turn Lanes at: 1) Sisk Road Onto Carpenter Road Overpass, 2) Carpenter Road Overpass Onto Northbound Route 99 On-ramp, 3) Orangeburg Avenue Onto Briggsmore Avenue," and

WHEREAS, the Public Works Director recommended accepting the proposal of David Evans and Associates, Inc., in an amount not-to-exceed $234,186,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto Public Works Department and David Evans and Associates, Inc., for Engineering Design services for the project "Construction of Three Dedicated Right-turn Lanes at: 1) Sisk Road Onto Carpenter Road Overpass, 2) Carpenter Road Overpass Onto Northbound Route 99 On-ramp, 3) Orangeburg Avenue Onto Briggsmore Avenue," in the not-to-exceed amount of $234,186.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-204

A RESOLUTION APPROVING THE ENGINEER'S REPORT, WITH ADDENDA - JUSTIFICATION AND COST ALLOCATION FOR PROPOSED WASTEWATER COLLECTION SYSTEM AND TREATMENT PLANT IMPROVEMENTS AS COMPLETE

WHEREAS, on June 7, 2005, by Resolution No. 2005-303, the Council approved a contract with Carollo Engineers to produce an Engineer's Report, Justification and Cost Allocation for Proposed Wastewater Collection System and Treatment Improvements (Engineer's Report), and

WHEREAS, the Engineer's Report essentially summarizes the master plans and is a key source document for the ongoing Utility Rate and Capacity Charge Analysis and specifically details the justification for the various improvement projects identified in the WWMP, and

WHEREAS, the Engineer's Report provides the rationale for determining the cost allocations of new improvements between the existing ratepayers and future users, and

WHEREAS, Carollo Engineers has completed the Engineer's Report, with Addenda,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Engineer's Report, with Addenda - Justification and Cost Allocation for Proposed Wastewater Collection System and Treatment Plant Improvements as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-205

A RESOLUTION CONDITIONALLY VACATING AND ABANDONING A PORTION OF THE CHANDON DRIVE RIGHT-OF-WAY IMMEDIATELY WEST OF MONTORRA DRIVE (SILVER OAK COMMUNITIES, LLC)

WHEREAS, Silver Oak Communities, LLC has filed an application to vacate and abandon a portion of the Chandon Drive right-of-way immediately west of Montorra Drive ("Proposed Abandonment"), and

WHEREAS, Streets and Highways Code Section 8320 et seq. prescribes the procedures to vacate and abandon public rights-of-way, and

WHEREAS, a title report was submitted by Silver Oak Communities, LLC with the abandonment request which shows that fee title to the property underlying the proposed abandonment belongs to the adjacent land owner who is a proponent of the abandonment, and

WHEREAS, the Proposed Abandonment has been referred to affected City departments and local utility companies, and no objection to the Proposed Abandonment has been received, and

WHEREAS, Government Code Section 65402(a) requires that prior to abandoning a public right-of-way, the Planning Commission shall make a determination as to whether the abandonment is consistent with the General Plan, and

WHEREAS, a hearing was held by the Planning Commission on January 22, 2007, in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered regarding whether the proposed vacation and abandonment conforms to the City's Urban Area General Plan, and

WHEREAS, by Planning Commission Resolution No. 2007-03, the Planning Commission rendered a report finding that the proposed abandonment is in conformance with the Modesto Urban Area General Plan, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Tuesday, March 27, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and

WHEREAS, three notices were posted along the line of the proposed right-of-way to be abandoned for two successive weeks prior to the hearing, and notice was published in the Modesto Bee for two successive weeks prior to the hearing, per Streets & Highways Code Sections 8323 and 8322, respectively, and,

WHEREAS, all things and acts necessary to be done as required by the State of California Streets and Highways Code Sections 8300 through 8363: Public Streets, Highways and Service Easements Vacation Law, in order to vacate and abandon the subject right-of-way have been done and accomplished, and

WHEREAS, the Proposed Abandonment should be conditioned on the construction of needed improvements and the reservation of the necessary utility easements to ensure that the abandoned right-of-way functions in a manner which is not detrimental to the public health, safety and welfare.

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

1. That the portion of Chandon Drive to be abandoned is unnecessary for present or future vehicular use, because the street now dead ends at the Village One Commercial Center and is no longer needed for through traffic circulation in the area.

2. That Environmental Assessment No. EA C&ED 2007-02 determined that the potential environmental effects of the subdivision are adequately addressed within the context of the previously adopted Village One Program EIR.

3. Approving the abandonment of Chandon Drive is consistent with the Village One Specific Plan, because it would facilitate pedestrian oriented movements while discouraging through traffic, as called for in Chapter II-C(1) of the Village One Specific Plan.

BE IT FURTHER RESOLVED that the Council hereby orders and declares the vacation and abandonment of a portion of the Chandon Drive right-of-way immediately west of Montorra Drive be subject to the following conditions:

1. No later than March 27, 2009, the applicant shall construct or enter into an agreement securing the construction of the following improvements prior to issuance of any building permits for the property known as APN 085-040-063:

    a. A 10-foot-wide Class One bicycle/pedestrian path from Montorra Drive west to the Village One Commercial Center, to the satisfaction of the Parks, Recreation and Neighborhoods Director or designee

    b. Decorative lighting for the length of the path, to the satisfaction of Parks, Recreation and Neighborhoods Director or designee.

    c. Demolition and removal of the pavement and concrete of the abandoned Chandon Drive to the satisfaction of the Public Works Director or designee.

    d. The closure of Chandon Drive shall be in accordance with the City approved improvement plans and to the satisfaction of the Public Works and Parks, Recreation and Neighborhoods Directors or designees.

2. Prior to recordation of the abandonment, a landscaping, lighting and irrigation plan for all public area landscaping shall be approved by the Parks, Recreation and Neighborhoods Director or designee. Landscaping, lighting and the irrigation system shall be installed and maintained in accordance with the approved plan.

Said right-of-way to be vacated and abandoned is more particularly described in **Exhibit "A"** attached hereto, and by this reference made a part hereof as though set forth in full herein.

BE IT FURTHER RESOLVED that in the event two (2) years lapse from the date of this conditional approval without all required conditions having been fulfilled, the conditional right-of-way abandonment shall expire and Chandon Drive shall remain as a public right-of-way.

BE IT FURTHER RESOLVED that the City Clerk shall not record this Resolution of abandonment until conditions 1 and 2 above have been fully satisfied to the satisfaction of the City's Public Works and Parks, Recreation and Neighborhoods Directors or designees. Within ten (10) working days after said conditions have been fully satisfied, the City Clerk shall cause a certified copy of this Resolution, attested under seal of the City, to be recorded in the Office of the County Recorder of Stanislaus County.

Chandon Drive Right-of-Way to be Abandon
Davante Villas, Unit No. 3

DESCRIPTION

All that certain real property situate in a portion of the Northwest Quarter of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian in the City of Modesto, County of Stanislaus, State of California described as follows:

Commencing on the north line of Chandon Drive, at the southwest corner of the 5.36 acre remainder parcel as shown on map of Davante Villas Unit No. 3 recorded in Volume 39 of Maps, at Page 82 Stanislaus County Records being on a curve to which a radial line bears North 0°31'36" West from the center; thence easterly 18.23 feet along said north line and said curve to a point to which a radial line bears North 0°29'28' East from the center, said point being the Point of Beginning of this description; thence South 37°55'39" East 33.46 feet to a point on the centerline of said Chandon Drive, being on a curve to which a radial line bears North 1°40'57" East from the center, thence easterly 130.43 feet along said centerline and said curve being concave to the south, having a radius of 1,000.00 feet and a central angle of 7°28'22" to a point of reverse curve to which a radial line bears North 9°09'19" East from the center; thence easterly 167.95 feet along said centerline and said reverse curve being concave to the north having a radius of 1,000.00 feet and a central angle of 9°37'22"; thence North 89°31'57" East 22.59 feet along said centerline being a tangent line to a point on a curve to which a radial line bears North 69°58'49" West from the center; thence northeasterly 48.53 feet along said curve being concave to the southeast having a radius of 40.00 feet and a central angle of 69°30'46" to a point of cusp with said north line of Chandon Drive; thence South 89°31'57" West 60.06 feet along said north line of Chandon Drive to a point on a tangent curve to which a radial line bears South 0°28'03" East from the center; thence westerly 163.58 feet along said north line of Chandon Drive and said tangent curve being concave to the north, having a radius of 974.00 feet and a central angle of 9°37'22" to a point of reverse curve to which a radial line bears South 9°09'19" West from the center; thence westerly 155.15 feet along said north line of Chandon Drive and said reverse curve being concave to the south and having a radius of 1,026.00 feet and a central angle of 8°39'51" to the Point of Beginning.

Containing: 8,876 SF (0.2038 Acres)

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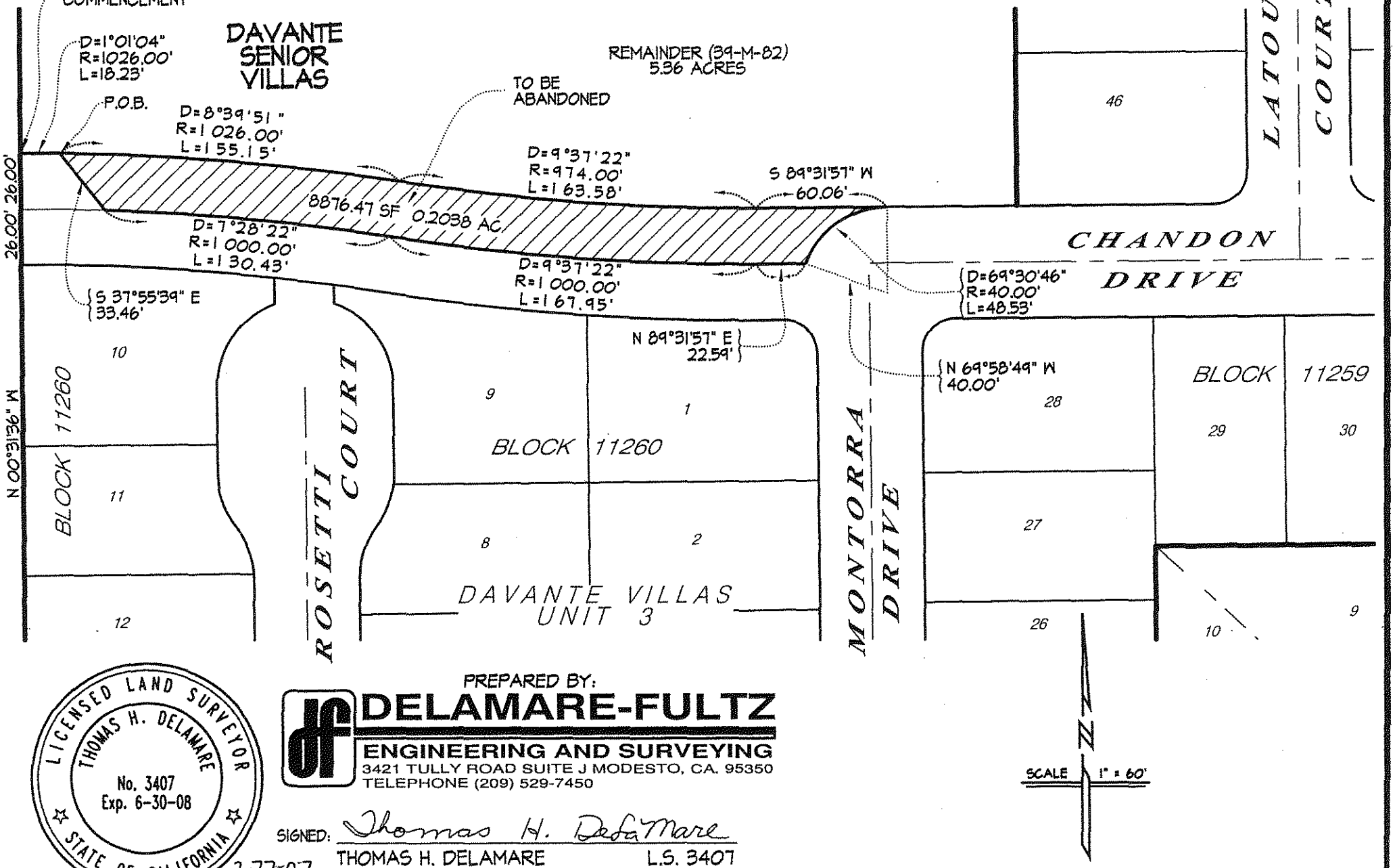
CHANDON DRIVE
ABANDONMENT EXHIBIT

LYING IN THE EAST ½ OF THE SOUTHWEST ¼ OF THE NORHTWEST ¼
OF SECTION 13, T.3 S., R.9 E., M.D.B.& M.
CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA
SCALE: 1" = 60' NOVEMBER, 2005



SCALE 1" = 60'

PREPARED BY:

DELAMARE-FULTZ
ENGINEERING AND SURVEYING
3421 TULLY ROAD SUITE J MODESTO, CA. 95350
TELEPHONE (209) 529-7450

LICENSED LAND SURVEYOR
THOMAS H. DELAMARE
No. 3407
Exp. 6-30-08
STATE OF CALIFORNIA
2-27-07

SIGNED: Thomas H. DeLaMare
THOMAS H. DELAMARE L.S. 3407
(EXPIRES 6 3)

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The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department
Planning Division

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007- 206

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR: APPLICATION TO ABANDON A PORTION CHANDON DRIVE IMMEDIATELY WEST OF MONTORRA DRIVE, (SILVER OAK COMMUNITES, LLC)

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One Final Environmental Impact Report ("EIR") (State Clearing House No. 90020181) is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, the Modesto City Council has adopted Resolution No. 94-297 which certified the Final Supplemental EIR for Village One; thus, the 1990 Village One Program EIR has been amended and updated by the 1994 Supplemental EIR, adopted by Resolution No. 94-297 on May 24, 1994, and

WHEREAS, on May 6, 2003, the City Council adopted Resolution No. 2003-223 which adopted an Addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan Update – May 2003 ("VI FMP "), and

WHEREAS, an application has been filed by Silver Oak Communities, LLC to abandon a portion of Chandon Drive immediately west of Montorra Drive, and

WHEREAS, the City's Community & Economic Development Department reviewed the proposed Project to determine if said Project might have a significant effect on the environment, and

WHEREAS, City staff has prepared a Written Checklist, Environmental Assessment No. EA/C&ED 2007-02, which concluded that the proposed Project is within the

scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and the addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan, and

WHEREAS, by Planning Commission Resolution No. 2007-03, the Planning Commission rendered a report finding that the Proposed Abandonment is in conformance with the Modesto Urban Area General Plan and recommended that the Council vacate and abandon the portion of Chandon Drive Avenue right-of-way, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on March 27, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2007-02, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2007-02 For the proposed abandonment of Chandon Drive immediately west of Montorra Drive, and the Council hereby makes the following findings:

1. The proposed abandonment is consistent with the Village One Specific Plan and Modesto Urban Area General Plan, and

2. As per Section 15168 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Program EIR, and no new environmental document or findings are required by CEQA, and

3. There are no substantial changes proposed in the project, which result in new significant environmental effects, or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR are required.

4. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the

severity of previously identified significant effects and therefore, no major revisions to the Program EIR, are required.

5. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:

   a. One or more significant effects which are not discussed in the Program EIR; or,

   b. Significant effects which were previously examined will be substantially more severe than previously shown; or,

   c. Previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,

   d. Mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

6. The Written Checklist, Environmental Assessment No. EA/C&ED 2007-02, provides the substantial evidence to support findings 3-5, noted above.

A copy of said Written Checklist, Environmental Assessment No. EA/C&ED 2007-02, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2007-02 for the abandonment of Chandon Drive in the Village One Specific Plan Area", is attached hereto as **Exhibit "A"**, and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Determination:
Project within the Scope of the Village One Specific Plan Program Environmental Impact Report for Chandon Drive Abandonment

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: David Wage
209/577-5302

Prepared by:

David Wage, Assistant Planner
City of Modesto
Community & Economic Development Department
209/577-5302

January 22, 2007

EA/C&ED No. 2007-02

I. PURPOSE

This written checklist, pursuant to CEQA Guidelines Section 15168 (C) (4), serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR. Based on a review of the project and Section 15162(a), this determination would permit the lead agency (City of Modesto) to approve the activity as being within the scope of the project covered by the Program EIR. This determination includes whether any new environmental document is required beyond the adopted Village One Specific Plan Program EIR (SCH# 90020181) for the proposed Chandon Drive Abandonment (project).

The 1994 Supplemental EIR that amended and superseded the 1990 Program EIR is the document reviewed for projects within the Village One Specific Plan area. A summary of significant impacts and their mitigation measures from the 1994 Supplemental EIR is attached as Exhibit "A." Where appropriate those feasible mitigation measures developed in the Supplement to the program EIR shall be incorporated into the proposed project.

II. PROJECT INFORMATION

1. **Project Title:**	Chandon Drive Abandonment
2. **Lead Agency Name and Address:**	City of Modesto
3. **Contact Person and Phone Number:**	David Wage, Assistant Planner Modesto Community & Economic Development Department 209/571-5540
4. **Project Location:**	Chandon Drive, west of Montorra Drive

5. **Project Sponsor's Name and Address:** Silver Oak Communities

   7600 N. Ingram Suite 131
   Fresno, Ca. 93711

6. **General Plan Designation:** The General Plan land use designation for the project site is: Village Residential (VR).

7. **Zoning:** Specific Plan Overlay (SP-O)

8. **Description of Project:** Pursuant to the Village One Specific Plan, Precise Plan No. 20, and the Final Development Plan for the Village One Commercial Center, the applicant is proposing the vacation and abandonment of a portion of Chandon Drive, west of Montorra. In accordance with the closure plan, the applicant is proposing to abandon the northernmost 26' of the Chandon Drive right-of way from Montorra Drive, west to the Village Commercial Center. The remaining 26' is proposed to be developed into a bicycle and pedestrian connection to the commercial center and surrounding residential uses. A six-foot wrought iron fence will be constructed along the property line to separate the bike path from the proposed land to be abandoned included in the Devante Senior Villas Development.

9. **Surrounding Land Uses and Setting:** The Village One Specific Plan Area is over half built, as planned and approved by the 1990 Village One Specific Plan. The project area is bounded by Floyd Avenue to the north, The Village Commercial Center to the West, single-family homes to the west and south.

10. **Other Public Agencies whose Approval Is Required:** None.

III. DETERMINATION:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15162 the following is true for the proposed project:

(1) Major revisions to the Village One Program EIR as amended by the 1994 Supplement, are not required because the project will not involve new significant environmental effects or increase severity of effects previously identified, and

(2) Major revisions to the Village One Program EIR as amended by the 1994 Supplement, are not required because no substantial changes to circumstances have occurred that involve new significant environmental effects or increase severity of effects previously identified, and

(3) No new information of substantial importance that was not known has become available that shows:

   a. one or more significant effects is not discussed in the Village One Program EIR as amended by the 1994 Supplement,

   b. identified significant effects will be more severe,

   c. previously infeasible mitigation measures are now feasible,

   d. project proponents have declined to adopt mitigation measures that would substantially reduce significant effects.

(4) Because no new significant effects have been identified and no new mitigation is required for the project, the environmental effects of the operation of the proposed project were covered by the Village One Program EIR as updated by the 1994 Supplement. Therefore, pursuant to CEQA Section 15168 (C) (4) no new environmental document is required.

(5) Therefore, the project known as Merle Avenue Abandonment is within the scope of the Village One Program EIR.

Paul Wagle 3/5/07

Project Manager Date

IV. PROJECT EVALUATION:

The following written Checklist based on Appendix G of the CEQA Guidelines serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15168 (c) (4) to determine whether the environmental effects of the operation were covered in the Program EIR.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
I.	**AESTHETICS.** Would the project:				
a.	Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☑
b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	☐	☐	☐	☑
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☑
d.	Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	☐	☐	☐	☑

Aesthetic and visual impacts are analyzed on pages III-100 through III-101 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that as the Specific Plan area is developed, it will eliminate views of the valley and the distant mountains from adjacent areas and reduce the area's visual open space. However, the program EIR found the effects of buildout of Village One on scenic vistas to be less than significant because views from the project area are minimal. The proposed abandonment would not change the extent or nature of construction in the Specific Plan area, or cause any other changes in the project area. Impacts on scenic vistas would therefore remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that there are no scenic resources in the project area, and that development within the Specific Plan area would therefore not result in significant impacts on scenic resources. This finding would not be affected by the proposed abandonment. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that the development within the Specific Plan area would have a less-than-significant impact on the visual character of the area. The proposed abandonment would not change the design or layout of the development proposed within the Village One Specific Plan. It is called for by the Specific Plan. For this reason, impacts on the visual character of the area would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

d. The proposed abandonment is consistent with the Village One Specific Plan. For this reason, impacts associated with additional light and glare would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
II.	**AGRICULTURAL RESOURCES.** In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:				
a.	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☑
b.	Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?	☐	☐	☐	☑
c.	Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	☐	☐	☐	☑

Impacts on agricultural resources are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that land designated as Prime Farmland would be lost as a result of development in the Village One Specific Plan area. This impact was determined to be significant and not mitigable. The proposed abandonment would not affect this finding because the project area would remain the same. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR presented information showing that any Williamson Act contracts in the Village One Specific Plan area would be automatically cancelled on annexation of the land to the City of Modesto, which has occurred, or would expire within 10 years of the time the original program EIR was prepared. The last Williamson Act contract covering land in the Village One Specific Plan area expired in 2001. There are no lands in the project area under Williamson Act contract. The Village One Specific Plan area has also been rezoned consistent with the specific plan, and no lands in the project area are now zoned for agricultural use. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR identified a potential land use conflict between new residential uses in the specific plan area and adjacent agricultural uses. Such conflicts can lead to conversion of adjacent farmlands to other uses. The program EIR proposed mitigation measures for this potential impact that would reduce the impact's significance, although the EIR noted that the mitigation measure might not fully mitigate the impact. No additional mitigation measures are available for this impact. This finding would not be affected by the proposed project because the project area and proposed land uses would remain the same. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
III.	**AIR QUALITY.** When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a.	Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☑
b.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
c.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☑
d.	Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☑
e.	Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☑

Impacts on air quality are analyzed on pages III-45 through III-54 of the 1994 Supplement.

Responses to Checklist Questions

a. / b. The Village One Specific Plan program EIR found that air pollution from project-related construction traffic and fireplaces & wood stoves in planned residential areas would violate air quality standards and contribute to an existing air quality violation. Construction traffic emissions would contribute to violation of the state and federal 8-hour carbon monoxide (CO) and particulate matter (PM10) standards and the federal ozone standard in the Modesto Urban Area and the San Joaquin Valley Air Basin. Urban traffic pollution would contribute to violations of the state ozone, CO, and PM10 standards in the Modesto Urban Area and San Joaquin Valley Air Basin. Residential pollution would contribute to violations of the pollutant standard index in the Modesto Urban Area. Partial mitigation for these impacts is included in the program EIR (Mitigation Measures 3–5), and the City of Modesto adopted a statement of overriding consideration for each impact. The proposed abandonment would not change the amount of development and construction in the project area, so trips generated by the project would not be affected and the types of land uses would not change. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that air pollutant emissions associated with traffic at buildout of Village One would exacerbate the existing ozone, PM10, and CO violations in the Modesto area and cause a significant cumulative impact. Partial mitigation for these emissions is included in the program EIR (Mitigation Measures 4.5.3[a] and 4.5.3[b]), and the City of Modesto made a statement of overriding consideration for each impact. The proposed abandonment would not change the amount of traffic associated with buildout of Village One or the types of land uses, so trips generated by the project would not be affected. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR found that PM10 generated during construction would aggravate the respiratory problems of people living and working nearby, therefore exposing sensitive receptors in the area to pollutant concentrations and causing a significant impact. However, the program EIR outlines mitigation measures that will be implemented to reduce the impact to an acceptable level (Mitigation Measure 40). The proposed abandonment would not change the level of construction emissions. There would be no additional impact. No mitigation is required.

e. The proposed abandonment would not create odors. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IV.	**BIOLOGICAL RESOURCES.** Would the project:				
a.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☑
b.	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☑
c.	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☑
d.	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☑
f.	Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☑

Impacts on biological resources are analyzed on pages III-68 through III-79 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the buildout could result in the loss of foraging habitat for Swainson's Hawk, a state-listed threatened species. However, this project is the abandonment of a paved roadway, which is not useful as foraging habitat. The development of the project site would result in a less than significant impact to foraging habitat for Swainson's Hawk. Therefore, no mitigation is required.

b. The Village One Specific Plan program EIR did not find that any riparian habitat or other designated sensitive natural community was present in the project area, and so found that the project would have a less-than-significant impact. The proposed abandonment would not change the boundaries of the Specific Plan area. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would result in the loss of lands that might be classified as wetlands by the U.S. Army Corps of Engineers, but that, with mitigation, the impact would be less than significant. The proposed abandonment would not change the Specific Plan area boundaries or the areas that would be disturbed. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not identify any migratory corridors in the project area, nor did it find that the project would interfere with the movement of any species. The proposed abandonment would not change the Specific Plan area boundaries. There would be no impact. No mitigation is required.

e. / f. No local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans apply to the Village One Specific Plan area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
V.	**CULTURAL RESOURCES.** Would the project:				
a.	Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	☐	☐	☐	☑
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	☐	☐	☐	☑
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☑
d.	Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☑

Responses to Checklist Questions

a.-d. Impacts on cultural resources resulting from the buildout of Village One (e.g., from construction of associated infrastructure) are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The report concluded that there are no known historic, archaeological, or paleontological resources in the Village One Specific Plan area. Based on the results of this report, (Cultural and Historic Resources Report, page 3) it was determined that the likelihood that the proposed abandonment would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. Development of the proposed project will not result in effects on scattered existing structures. A Cultural Resources Assessment was prepared to determine if any of these affected structures are considered historic resources. The Cultural Resources Assessment is attached to this document as Appendix A. No historic structures are located within the project area boundaries. Therefore, no mitigation measures are necessary.

Since no archaeological, or paleontological resources were found in the previous document to be located in the project area, and since the proposed project would not have a significant impact on historic structures, there would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VI.	**GEOLOGY AND SOILS.** Would the project:				
a.	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
	1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☑
	2. Strong seismic groundshaking?	☐	☐	☐	☑
	3. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☑
	4. Landslides?	☐	☐	☐	☑
b.	Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☑
c.	Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☑
d.	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☑
e.	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?	☐	☐	☐	☑

Impacts associated with geology and soils are analyzed on pages III-105 through III-108 of the 1994 Supplement.

Responses to Checklist Questions

a.-d. The program EIR, as supplemented, found that the project area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures were required. The proposed abandonment would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan included provisions for the project to be served by public sewers. No septic tanks or alternative wastewater systems were proposed. The proposed abandonment would not change the proposed method of wastewater disposal. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
VII.	**HAZARDS AND HAZARDOUS MATERIALS.** Would the project:				
a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☑
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☑
c.	Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☑
d.	Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☑
e.	Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
f.	Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☑
h.	Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☑

Impacts associated with hazards and hazardous materials are analyzed on pages III-80 through III-94 and III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a.–c. The Village One Specific Plan does not allow any land uses that would use hazardous materials. The proposed abandonment would not change land uses contemplated by the Specific Plan. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR, as supplemented, found no hazardous materials were stored at or near the project site. No significant impacts were identified, and no mitigation measures were required. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located to the east of the Village One Specific Plan area. However, take-offs and landings were found to take place parallel to and outside the Specific Plan area boundaries, and flight patterns are generally situated to the east of the Specific Plan area. There would be no additional impact. No mitigation is required.

g. Since the adoption of the Village One Specific Plan, the Modesto General Plan has been updated to include development of Village One consistent with the specific plan. City emergency plans are developed with the assumption that the Village One Specific Plan will be implemented. The proposed abandonment would not change construction, land use, or other physical attributes of the Right-of-Way Acquisition. There would be no additional impact. No mitigation is required.

h. The project site is located in an area of the City of Modesto planned for buildout of an urban neighborhood. Approximately 50% of the project area remains undeveloped, with a covering of dry brush and vegetation. The potential for wildland fires is low, and this potential will decrease further as buildout continues. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VIII.	**HYDROLOGY AND WATER QUALITY.** Would the project:				
a.	Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☑
b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☑
c.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?	☐	☐	☐	☑
d.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
e.	Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☑
f.	Otherwise substantially degrade water quality?	☐	☐	☐	☑
g.	Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☑
h.	Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	☐	☐	☐	☑
i.	Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☑
j.	Contribute to inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☑

Impacts associated with hydrology are analyzed on pages III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR did not find that buildout of the plan would violate any water quality standards or waste discharge requirements. The proposed project is consistent with the Village One Specific Plan, so there would be no additional impacts. No mitigation is required.

b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area might interfere with local groundwater recharge. However, the impact was found to be less than significant because the Specific Plan area is not a major groundwater recharge area and it includes a recharge/discharge plan for disposal of stormwater runoff and recharge of groundwater. The proposed project would not change the amount of impervious surface in the Specific Plan area or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

c.–e. The Village One Specific Plan program EIR found that development will substantially alter the existing drainage pattern of the area but, because the project will incorporate an urban storm drain system, will not result in any erosion impacts. The proposed project would not change the amount of impervious surface or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

f. The Village One Specific Plan program EIR did not find that development would substantially degrade water quality. The proposed project would not change water use or discharge associated with the buildout of the Village One Specific Plan area. There would be no additional impact. No mitigation is required.

g.–i. According to the Village One Specific Plan program EIR, the project site is not situated in a 100-year flood hazard area or downstream from a levee or dam. There would be no impact. No mitigation is required.

j. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IX.	**LAND USE AND PLANNING.** Would the project:				
a.	Physically divide an established community?	☐	☐	☐	☑
b.	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☑
c.	Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☑

Impacts associated with land use and planning are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

a. The proposed project would not result in any physical changes to the environment beyond those described in the Village One Specific Plan. Village One would continue to be developed as a planned community; therefore, the project would not divide an established community. There would be no impact, and no mitigation is required.

b., c. The Village One Specific Plan has been adopted by the City of Modesto and has been incorporated into the Modesto General Plan. The proposed project would be consistent with the Village One Specific Plan. There are no other applicable land use or conservation plans for the project area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
X.	**MINERAL RESOURCES.** Would the project:				
a.	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☑
b.	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☑

Responses to Checklist Questions

a., b. No known mineral resources or important recovery sites are located in the Village One Specific Plan Area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
XI.	**NOISE.** Would the project:				
c.	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☑
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☑
e.	Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑

Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.

a., c. The Village One Specific Plan program EIR found that proposed residential housing in the project area would be exposed to noise levels exceeding general plan thresholds, but mitigation measures were incorporated to reduce the impact to a less-than-significant level. The proposed project would not change project-related noise-generating activities. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that the buildout of Village One would not expose people to, or generate excessive, groundborne vibration or groundborne noise levels. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR found that construction of the proposed project would result in a substantial temporary increase in ambient noise levels for residential housing. However, mitigation measures were incorporated into the program EIR to reduce the impact to a less-than-significant level. The proposed project would not change construction activities. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan program EIR found that the Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the Village One Specific Plan area. However, take-offs and landings take place parallel to and outside the Specific Plan boundaries, and flight patterns are generally situated east of the project area. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XII.	**POPULATION AND HOUSING.** Would the project:				
a.	Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	☐	☑
b.	Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
c.	Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑

Impacts on population and housing are analyzed on pages III-95 through III-99 of the 1994 Supplement.

Responses to Checklist Questions

a.–c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would not result in significant adverse impacts on population and housing units. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XIII.	**PUBLIC SERVICES.** Would the project:				
a.	Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:				
	Fire protection?	☐	☐	☐	☑
	Police protection?	☐	☐	☐	☑
	Schools?	☐	☐	☐	☑
	Parks?	☐	☐	☐	☑
	Other public facilities?	☐	☐	☐	☑

Impacts on public services are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the only significant impact that buildout of the Village One Specific Plan area would have on public services would be in the areas of fire protection and law enforcement. Mitigation measures were identified in the program EIR to reduce the level of this impact to a less-than-significant level. No other significant impacts on public services were identified. The proposed abandonment would not change the provision of public services. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
XIV.	**RECREATION.** Would the project:				
a.	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☑
b.	Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☐	☑

Impacts on recreation are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a., b. No significant impacts on recreation were identified in the program EIR. The proposed project would not change the provision of parks and recreation facilities. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
XV.	**TRANSPORTATION/TRAFFIC.** Would the project:				
a.	Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	☐	☐	☐	☑
b.	Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☑
c.	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
d.	Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☑	☐
e.	Result in inadequate emergency access?	☐	☐	☐	☑
f.	Result in inadequate parking capacity?	☐	☐	☐	☑
g.	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☑

Impacts on transportation and traffic are analyzed on pages III-40 – III-44 of the 1994 Supplement.

Responses to Checklist Questions

a., b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system and would affect level of service at several intersections. Mitigation measures identified in the program EIR were identified to reduce impacts to a less-than-significant level for all intersections except the Briggsmore Avenue/Oakdale Avenue intersection. For that intersection, the impact was determined to be significant and not mitigable. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the 1994 Supplement. The proposed abandonment would not alter traffic patterns in the Specific Plan area or result in additional trips. The abandonment is required by the Specific Plan. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR did not find that the buildout of the Village One Specific Plan area would result in a change in air traffic patterns. The proposed project does not include any elements that would affect air traffic patterns. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area included any hazardous design features or increased any incompatible uses for roads in the project area. Therefore, the abandonment will have a less than significant effect on increasing hazards due to a design feature. No mitigation is required.

e. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate emergency access in the Specific Plan area. The Specific Plan includes provision of adequate roadways to serve the Village One development. The Specific Plan calls for the abandonment of Merle Avenue as proposed by this project, and the City has delayed the abandonment pending the connection of Floyd Avenue to Claus Road to provide an alternative for east and west bound traffic. The connection of Floyd Avenue to Claus Road has been made. Therefore, the impact on emergency service access is less than significant. No mitigation is required.

f. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate parking capacity in the Specific Plan area. There would be no impact. No mitigation is required.

g. The proposed project does not include any changes related to transportation policies, and would have no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVI.	**UTILITIES AND SERVICE SYSTEMS.** Would the project:				
a.	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☑
b.	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☑
c.	Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☑
d.	Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?	☐	☐	☐	☑
e.	Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☑
g.	Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☑

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a. The City provides sewer services to the Village One area. All wastewater would be directed to city wastewater treatment facilities. No wastewater discharges would occur in the project area. The proposed abandonment would not increase the amount of wastewater that will be generated at buildout of the Specific Plan area. There would be no additional impact. No mitigation is required.

b., e. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on water or wastewater infrastructure. There would be no additional impact as a result of the proposed project. No mitigation is required.

c. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed in order to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on stormwater drainage facilities. An update to the Storm Drainage Master Plan has been prepared and is under consideration by the City. An addendum to the Village One program EIR for the Storm Drainage Master Plan has also been prepared and is under consideration by the City. The project would not result in any additional impacts or the need for any additional mitigation beyond that assessed in the Addendum to the Village One Program EIR for the Storm Drainage Master Plan.

d. The Village One Specific Plan program EIR found that, with mitigation, the effects of buildout of the Village One Specific Plan area on water supply would be less than significant. There would be no additional impact resulting from the proposed project. No mitigation is required.

f., g. The Village One Specific Plan program EIR found that the area's landfills have sufficient permitted capacity to accommodate the project's solid waste disposal needs. The proposed project would not result in any physical changes in the environment or the generation of any additional solid waste. There would be no impact. No mitigation is required.

XVII.	**MANDATORY FINDINGS OF SIGNIFICANCE.**				
a.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☑
b.	Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☐	☑
c.	Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☑

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

Responses to Checklist Questions

a. As described above, the proposed project would not result in any significant impacts on the environment over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

b. As described above, the proposed project would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

c. As described above, the proposed project would not result in any significant impacts affecting humans over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

V. MITIGATION APPLIED TO PROJECT

The following mitigation measures developed in the 1994 Village One Specific Plan Supplement to the Program EIR are appropriate to the project and will be incorporated into the project. Therefore, the environmental effects of the project were covered by the program EIR.

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/ suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

2. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

3. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

4. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

5. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

6. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

7. The developer shall implement measures to prevent carryout or trackout that may otherwise occur in conjunction with construction activities.

8. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

   The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

a. A hammer or any other device or implement used to pound or strike an object.

b. An impact wrench or other tool or equipment powered by compressed air.

c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

9. If archeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the MEIR.

10. The developer shall implement pre- and post-construction best management practices (BMP) to minimize pollutants entering the storm system.

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-207

Print

A RESOLUTION REMOVING THE PROPERTY AT 501 MAGNOLIA AVENUE FROM THE CITY OF MODESTO LANDMARK DESIGNATED SITES LIST AND RESCINDING RESOLUTION NO. 99-429 (OWNER: EARL ANDERSON)

WHEREAS, Chapter 10 of Title 9 of the Modesto Municipal Code establishes Landmark Preservation Site status as a way to recognize, preserve, enhance and perpetuate significant landmarks in the community, and

WHEREAS, at a public hearing on August 24, 1999, the City Council found and determined that the property at 501 Magnolia Avenue was eligible for designation as a Landmark Preservation Site for the reasons set forth in Resolution No. 99-7 adopted by The Landmark Preservation Commission, and

WHEREAS, on August 24, 1999, the City Council, by Resolution No. 99-429, designated the property at 501 Magnolia Avenue as a Modesto Landmark Preservation Site. (Owner: Earl Anderson), and

WHEREAS, the owner of the property at 501 Magnolia Avenue has requested that his property be removed as a Landmark Preservation Designated Site, and

WHEREAS, the Landmark Preservation Commission met on February 26, 2007, and supported removing the property at 501 Magnolia from the Landmark Designated Sites List, and

WHEREAS, at a duly-noticed public hearing held on March 27, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the Council considered the removal of the property at 501 Magnolia Avenue, Landmark Site No. 50, from the City of Modesto Landmark Designated Sites List,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the property located at 501 Magnolia Avenue is hereby removed from the list of City of Modesto Landmark Designated Sites.

BE IT FURTHER RESOLVED that Resolution No. 99-429 is hereby rescinded.

BE IT FURTHER RESOLVED that pursuant to Section 9-10.104(e)(1) of the Modesto Municipal Code, the City Clerk shall record a copy of this resolution with the County Recorder's Office of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-208

A RESOLUTION APPROVING AMENDMENT TO STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND GOODWIN CONSULTING GROUP, INC. FOR PREPARATION OF A FISCAL IMPACT ANALYSIS, IN AN AMOUNT NOT TO EXCEED $33,764 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT

WHEREAS, the City Council is desirous of identifying both long and short term funding options for police and fire services, and

WHEREAS, a fiscal impact analysis will allow the City to review the costs associated with police and fire services and potential tax rates associated therewith, and

WHEREAS, a Request for Proposals for a fiscal impact analysis was issued and five proposals were received, and

WHEREAS, staff from the City Manager's Office and Finance Department, and Councilmember Dunbar, who participated as an observer, interviewed the five firms, and

WHEREAS, Goodwin Consulting Group Inc. was selected to prepare the fiscal impact analysis, and

WHEREAS, on April 25, 2006, the City Council, by Resolution No. 2006-299, approved a Standard Agreement for Consultant Services with Goodwin Consulting Group, Inc. ("Agreement"), in an amount not to exceed $28,500, for the preparation of a fiscal impact analysis, and

WHEREAS, an increase in the scope and budget for the Agreement are necessary due to the addition of stakeholders' meetings and the review and analysis of additional reports,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to Standard Agreement for Consultant

Services with Goodwin Consulting Group, Inc. in an amount not to exceed $33,764, for preparation of a fiscal impact analysis.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-209

A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING BUDGET AND APPROVING AN APPROPRIATION TRANSFER OF $16,882 FROM POLICE ADMINISTRATION (0100-190-1901-0235) AND $16,882 FROM FIRE TRAINING (0100-180-1830-0235) TO THE CITY MANAGER'S OPERATING BUDGET (0100-020-0201-0235) FOR THE PREPARATION OF A FISCAL IMPACT ANALYSIS BY GOODWIN CONSULTING GROUP, INC.

WHEREAS, the City Council is desirous of identifying both long and short term funding options for police and fire services, and

WHEREAS, a fiscal impact analysis will allow the City to review the costs associated with police and fire services and potential tax rates associated therewith, and

WHEREAS, a Request for Proposals for a fiscal impact analysis was issued, and

WHEREAS, Goodwin Consulting Group Inc. was selected to prepare the fiscal impact analysis in an amount not to exceed $28,500, plus a 10% contingency for preparation of the analysis, and

WHEREAS, on April 25, 2006, the City Council, by Resolution No. 2006-299, approved a Standard Agreement for Consultant Services with Goodwin Consulting Group, Inc. ("Agreement"), in an amount not to exceed $28,500, for the preparation of a fiscal impact analysis, and

WHEREAS, an increase in the scope and budget for the Agreement are necessary due to the addition of stakeholders' meetings and the review and analysis of additional reports, and

WHEREAS, the 2006-2007 fiscal year budget did not contemplate an increase in the scope and budget, and

WHEREAS, staff proposes allocating $16,882 from Police Administration (0100-190-1901-0235) and $16,882 from Fire Training (0100-180-1830-0235) to the City Manager's Operating Budget (0100-020-0201-0235),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following appropriation is hereby approved to provide the funding for said fiscal impact analysis:

Appropriations

FROM:	0100-190-1901-0235	$16,882
	0100-180-1830-0235	$16,882
TO:	0100-020-0201-0235	$ 33,764

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary budget adjustments in coordination with the Finance Department to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2007, Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-210

A RESOLUTION APPROVING $10,000 IN FUNDING FOR THE LA LOMA NEIGHBORHOOD ASSOCIATION: "LA LOMA ROUNDABOUT" PROJECT THROUGH THE COMMUNITY DEVELOPMENT BLOCK GRANT NEIGHBORHOOD CAPITAL IMPROVEMENTS PROJECT (NCIP) PROPOSALS FOR FISCAL YEAR 2006-2007

WHEREAS, the Neighborhood Capital Improvement Project (NCIP) is a program funded by Community Development Block Grants (CDBG) monies, and

WHEREAS, the program is designed to provide funding to neighborhood-based groups to do beautification or capital projects in their neighborhoods, which will result in an improvement in the quality of life for the residents of their neighborhoods, and

WHEREAS, the NCIP program promotes citizen involvement and neighborhood based leadership within the community, and

WHEREAS, these projects are a benefit to the neighborhoods and demonstrate good collaboration within the community, and

WHEREAS, the program often helps start-up grass root groups to receive funding that otherwise would be difficult for them to receive, and

WHEREAS, with approval from the Citizens Housing & Community Development Committee (CH&CDC) on November 9, 2006, the application for the NCIP was released on November 30, 2006, to neighborhood groups and interested parties for improvement projects to be funded through CDBG funds, up to $10,000 per project, and

WHEREAS, one proposal, from the La Loma Neighborhood Association, "La Loma Roundabout", was received in response to the RFP, and

WHEREAS, the La Loma Neighborhood Association is a voluntary neighborhood association, with new leadership since June 2006, which is motivating residents within the La Loma Neighborhood to participate in neighborhood projects, and

WHEREAS, this application is a funding request to improve and beautify the roundabout located at the intersection of James Street, La Loma Avenue, G Street, and 19th Street, and

WHEREAS, a review panel recommended funding for the "La Loma Roundabout" project, in the amount of $10,000, and

WHEREAS, the recommendation of the review panel was presented to the Citizens Housing and Community Development Committee (CH&CDC) on March 5, 2007, and

WHEREAS, the Citizens Housing and Community Development Committee met on March 5, 2007 and supported the recommendation to provide $10,000 in funding for the La Loma Neighborhood Association: "La Loma Roundabout" project through the Community Development Block Grant Neighborhood Capital Improvements Project (NCIP) Proposals for Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves $10,000 in funding for the La Loma Neighborhood Association: "La Loma Roundabout" project through the Community Development Block Grant Neighborhood Capital Improvements Project (NCIP) Proposals for Fiscal Year 2006-2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-211

Print

A RESOLUTION ACCEPTING THE WORK BY PLAYGROUNDS PLUS FOR THE PROJECT TITLED "PLAY EQUIPMENT UPGRADES FOR MODESTO PLAYGROUNDS – GROUP 2" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $240,515.20

WHEREAS, a report has been filed by the Public Works Director that the project titled "Play Equipment Upgrades for Modesto Playgrounds – Group 2" has been completed by Playgrounds Plus, in accordance with the contract agreement dated June 27, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Play Equipment Upgrades for Modesto Playgrounds – Group 2" is hereby accepted as complete from said contractor, Playgrounds Plus, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $240,515.20, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-212

A RESOLUTION ACCEPTING THE WORK BY CALWATER DRILLING COMPANY, INC., FOR THE PROJECT TITLED "WELL #63 DEVELOPMENT PROJECT AT MILDRED PERKINS PARK" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $258,720

WHEREAS, a report has been filed by the Public Works Director that the project titled "Well #63 Development Project at Mildred Perkins Park" has been completed by Calwater Drilling Company, Inc., in accordance with the contract agreement dated August 2, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Well #63 Development Project at Mildred Perkins Park" is hereby accepted as complete from said contractor, Calwater Drilling Company, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $258,720, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-213

A RESOLUTION APPROVING THE FINAL MAP OF CAMBROOKE ESTATES IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH GP LAND INVESTMENT COMPANY LLC, A CALIFORNIA LIMITED LIABILITY COMPANY.

WHEREAS, GP LAND INVESTMENT COMPANY LLC, A CALIFORNIA LIMITED LIABILITY COMPANY ("Subdivider"), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 1.52 acres, known as CAMBROOKE ESTATES ("SUBDIVISION"), in the Village One Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 16th day of May, 2005, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto and the City Engineer have certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the final map for Cambrooke Estates Subdivision be approved; that the dedications for public streets and easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public use; and that the City Clerk be authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits

required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid and after Subdivider has furnished securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute a subdivision agreement with GP LAND INVESTMENT COMPANY LLC, A CALIFORNIA LIMITED LIABILITY COMPANY as required by Section 4-4.604(c) of the Modesto Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By SA Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-214

A RESOLUTION APPROVING THE PROJECT, INCLUDING PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "2007 CAPE SEALS", ACCEPTING THE LOW BID AND APPROVING A $591,679.16 CONTRACT WITH INTERMOUNTAIN SLURRY SEAL, INC., AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled "2007 Cape Seals" and City staff recommends approval by the City Council, and

WHEREAS, the bids received for "2007 Cape Seals" were opened at 11:00 a.m. on March 13, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $591,679.16 received from Intermountain Slurry Seal, Inc., be accepted as the lowest responsible bid and the contract be awarded to Intermountain Slurry Seal, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, accepts the bid of Intermountain Slurry Seal, Inc., in the amount of $591,679.16, and hereby awards Intermountain Slurry Seal, Inc., the contract titled "2007 Cape Seals."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-215

A RESOLUTION AWARDING A CONTRACT TO MV TRANSPORTATION, INC. TO OPERATE THE MODESTO AREA EXPRESS BUS SERVICE AND AUTHORIZING STAFF TO NEGOTIATE A FINAL AGREEMENT WITH MV TRANSPORTATION, INC.

WHEREAS, the existing agreement with MV Transportation, Inc. to operate the Modesto Area Express (MAX) bus service expires June 29, 2007, and

WHEREAS, the City wishes to continue providing bus service to the citizens of Modesto, and

WHEREAS, on October 3, 2006 the City Council authorized staff to solicit proposals for a new five-year contract to be effective June 30, 2007, and

WHEREAS, four proposals were received for the contract, and

WHEREAS, an evaluation committee composed of staff from two different transit agencies and the City of Modesto selected MV Transportation's proposal as the best submitted, and

WHEREAS, by an agenda report to the City Council dated March 13, 2007 from the Public Works Director, recommended award of a new MAX operations contract to MV Transportation, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a contract to operate the Modesto Area Express bus service is awarded to MV Transportation, Inc. subject to City Council approval of a final agreement.

BE IT FURTHER RESOLVED that staff is authorized to negotiate a final agreement with MV Transportation, Inc. for consideration by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-216

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO APPROVING AND AUTHORIZING THE ISSUANCE AND SALE BY THE MODESTO PUBLIC FINANCING AUTHORITY OF NOT TO EXCEED $65,000,000 AGGREGATE PRINCIPAL AMOUNT OF LEASE REVENUE REFUNDING AND CAPITAL IMPROVEMENT BONDS, SERIES 2007; APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A SUBLEASE, A FACILITY LEASE, A PURCHASE CONTRACT, A CONTINUING DISCLOSURE AGREEMENT AND A SWAP AGREEMENT; APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT; AND APPROVING CERTAIN OTHER RELATED ACTIONS

WHEREAS, the City of Modesto (the "City") is a charter city and a municipal corporation duly organized and existing under and by virtue of the laws of the State of California; and

WHEREAS, the Modesto Public Financing Authority (the "Authority") is authorized under the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4, Chapter 5, Division 7, Title 1 (commencing with Section 6584) of the California Government Code, as amended (the "Act"), to lease and/or purchase real property and to issue bonds for the financing and refinancing of public capital improvements whenever there are significant public benefits; and

WHEREAS, the Authority previously issued its Lease Revenue Bonds, Series 1997 (John Thurman Field Renovation Project) (the "1997 Bonds") and Lease Revenue Bonds, Series 1998 (Capital Improvements and Refinancing Project) (the "1998 Bonds") to assist the City in the financing of certain public capital improvements located in the City, including John Thurman field, a City-County administration building, a public parking garage, a communication dispatch center, a police headquarter, various public parks and miscellaneous city properties; and

WHEREAS, the City has determined to refund all of the 1997 Bonds and a

portion of the 1998 Bonds; and

WHEREAS, in accordance with the Act, the City, on the date hereof, held a public hearing on the proposed financing following publication of the notice of the public hearing at lease five days prior thereto in a newspaper of general circulation in the City and the City Council hereby finds that the proposed financing will result in significant public benefits, including demonstrable savings in effective interest rate, bond preparation, bond underwriting or bond issuance costs; and

WHEREAS, the City desires to approve the sale and issuance by the Authority of not to exceed $65,000,000 in aggregate principal amount of Modesto Public Financing Authority Lease Revenue Refunding and Capital Improvement Bonds, Series 2007, in one or more series of bonds (the "Series 2007 Bonds"), pursuant to an indenture (the "Indenture") by and between the Authority and The Bank of New York Trust Company, N.A., as trustee (the "Trustee"), for the purposes of (i) providing funds to finance certain additional improvements to John Thurman field, (ii) providing funds to refund all of the 1997 Bonds and a portion of the 1998 Bonds, and (iii) paying the costs of issuance therefore (collectively, the "2007 Project"); and

WHEREAS, the Authority previously leased certain properties to the City pursuant to a Lease/Purchase Agreement, dated as of March 1, 1998, as amended by Amendment No. 1 to Lease/Purchase Agreement, dated June 15, 2000 and Amendment No. 2 to Lease/Purchase Agreement, dated October 15, 2002 (as so amended, the "1998 Lease") under which the City is obligated to make lease payments for the lease of properties thereunder (the "Leased Property"); and

WHEREAS, pursuant to Section 7.2 of the 1998 Lease, the City may sublease the Leased Property or any portions thereof, as provided in the 1998 Lease; and

WHEREAS, in consideration of the Authority's assistance in financing the 2007 Project through the issuance of the Series 2007 Bonds and in consideration of the corresponding reduction in lease payments payable by the City under the 1998 Lease as a result of the partial refunding of the 1998 Bonds, the City will sublease to the Authority, pursuant to a sublease (the "Sublease") by and between the City and the Authority and in accordance with the terms of the 1998 Lease, the Leased Property, as more fully described in Exhibit A of the Sublease; and

WHEREAS, the Authority will lease back to the City the Leased Property pursuant to the terms of a Facility Lease (the "Facility Lease") by and between the Authority and the City pursuant to which the City will pay Base Rental Payments therefor, all under and in accordance with the Constitution and laws of the State of California, including the Act; and

WHEREAS, pursuant to the terms of the 1998 Lease, the obligation of the City to make lease payments under the 1998 Lease will remain the obligations of the City and no portion of the Leased Property subleased to the Authority pursuant to the Sublease will be used for a purpose other than a governmental function authorized under the provisions of the Constitution and laws of the State of California; and

WHEREAS, in consideration of the partial refunding of the 1998 Bonds and the corresponding reduction of the lease payments payable by the City under the 1998 Lease with respect to the component constituting the public parking garage, the City desires to reduce the reimbursement obligation of the Redevelopment Agency of the City of Modesto (the "Redevelopment Agency") under the Reimbursement Agreement, dated as of March 1, 1998 (the "Reimbursement Agreement") by and between the City and the Redevelopment Agency; and

WHEREAS, Section 5922 of the California Government Code provides that in connection with, or incidental to, the issuance or carrying of bonds, any public entity may enter into any contracts which the public entity determines to be appropriate to place the obligations represented by the bonds, in whole or in part, on the interest rate, cash flow or other basis desired by the public entity, including without limitation contracts commonly known as interest rate swap agreements, to hedge payment, rate, spread or similar exposure; and

WHEREAS, the Series 2007 Bonds are expected to be initially executed and delivered as auction rate securities and the Authority is expected to execute an interest rate swap agreement providing for a fixed swap rate on the Series 2007 Bonds (the "Swap") and the Authority will execute the Swap using the ISDA Master Agreement and related Schedule, Credit Support Annex and Confirmation (collectively, the "Swap Agreement") by and between the Authority and Bank of America, N.A. (the "Swap Provider"); and

WHEREAS, pursuant to Section 5922 of the Government Code of the State of California, the City hereby finds and determines that the Swap Agreement to be entered into by the Authority in connection with, or incidental to, the issuance of the Series 2007 Bonds, will reduce the amount and duration of interest rate risk with respect to the Series 2007 Bonds and will result in a lower cost of borrowing by the Authority when used in combination with the Series 2007 Bonds; and

WHEREAS, the City proposes to execute and enter into a bond purchase contract (the "Purchase Contract") with Banc of America Securities LLC (the "Underwriter") and the Authority, pursuant to which the Underwriter will purchase the Series 2007 Bonds for reoffering to the public; and

WHEREAS, the City proposes to approve of and deem final the Preliminary Official Statement relating to the Series 2007 Bonds (the "Preliminary Official Statement") for purposes of Rule 15c2-12 of the Securities and Exchange Act of 1934, as amended, and to execute and deliver an Official Statement (the "Official Statement") relating to the Series 2007 Bonds and to authorize the distribution of the Preliminary Official Statement to prospective purchasers and the Official Statement to actual purchasers of the Series 2007 Bonds; and

WHEREAS, the City proposes to execute and enter into a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") with the Trustee, as dissemination agent, for the benefit of the owners of the Series 2007 Bonds and to assist the Underwriter in complying with Rule 15c2-12 of the Securities Exchange Act of 1934, as amended; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided;

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Modesto, as follows:

Section 1. Findings. The City Council hereby finds and determines that the foregoing recitals are true and correct and that the actions authorized hereby constitute and are with respect to the public affairs of the City and that the consummation of the

transactions contemplated shall result in significant public benefits to the City.

Section 2. Approval of Issuance of Series 2007 Bonds. The City Council hereby approves the issuance of the Series 2007 Bonds by the Authority in the aggregate principal amount not to exceed $65,000,000.

Section 3. Facility Lease. The proposed form of the Facility Lease presented to this meeting and on file with the City Clerk is hereby approved. The Mayor, City Manager, Finance Director and each of their designees (each, an "Authorized Officer") are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Facility Lease in substantially said form, with such changes therein as such Authorized Officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. The maximum annual base rental payments payable by the City (exclusive of additional payments) in any fiscal year shall not exceed $5,169,429.69, plus any deferred rental as provided in Section 3.04 of the Facility Lease.

Section 4. Sublease. The proposed form of the Sublease presented to this meeting and on file with the City Clerk is hereby approved. The Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Sublease in substantially said form, with such changes therein as such Authorized Officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. Continuing Disclosure Agreement. The proposed form of the Continuing Disclosure Agreement presented to this meeting and on file with the City Clerk is hereby approved. The Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the

Continuing Disclosure Agreement in substantially said form, with such changes therein as such Authorized Officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. Purchase Contract. The proposed form of the Purchase Contract presented to this meeting and on file with the City Clerk is hereby approved. The Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Purchase Contract in substantially said form, with such changes therein as such Authorized Officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided that the aggregate principal amount of the Series 2007 Bonds shall not exceed $65,000,000, the interest rate on the Series 2007 Bonds shall not exceed twelve percent (12%) per annum and the underwriting discount (excluding any original issue discount) shall not exceed 0.5% of the principal amount of the Series 2007 Bonds sold.

Section 7. Official Statement. The form of Preliminary Official Statement of the Authority relating to the Series 2007 Bonds presented to this meeting and on file with the City Clerk is hereby approved. Any of the Authorized Officers is hereby authorized to certify that said Preliminary Official Statement, with such changes therein as such Authorized Officer executing the same shall approve, is as of its date "deemed final" for purposes of Rule 15c2-12 of the Securities and Exchange Commission. Any of the Authorized Officers is hereby authorized and directed to execute for and on behalf of the Authority a final Official Statement, in substantially the form of the Preliminary Official Statement, with such changes therein (and additions thereto to reflect the terms of the sale of the Series 2007 Bonds) as such Authorized Officer shall approve after consultation with Bond Counsel, such approval to be evidenced by the execution and delivery thereof.

The Underwriter is hereby authorized to distribute copies of said Preliminary Official Statement to persons who may be interested in the purchase of the Series 2007 Bonds and are directed to deliver copies of the final Official Statement to all actual purchasers of the Series 2007 Bonds.

Section 8. Swap Agreement. The proposed form of the Swap Agreement presented to this meeting and on file with the City Clerk is hereby approved, with such changes therein as authorized officers of the Authority may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided that the Swap Agreement shall be in an aggregate notional amount not to exceed $65,000,000, at a nominal swap rate not to exceed 4.5 percent (4.5%) per annum against receipt of a variable rate equal to the interest rate on the Series 2007 Bonds.

Section 9. Reduction of Payments under the Reimbursement Agreement. Each Authorized Officer is hereby authorized and directed to execute an instrument unilaterally reducing the payments of the Redevelopment Agency under the Reimbursement Agreement and to provide a revised schedule of Redevelopment Agency payments under the Reimbursement Agreement.

Section 10. Attestations. The City Clerk is hereby authorized and directed to attest the signatures of the Mayor, the City Manager and the Finance Director and each of their designees and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the Series 2007 Bonds and the documents approved by this Resolution.

Section 11. Other Actions. The Authorized Officers are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate,

carry out, give effect to and comply with the terms and intent of this Resolution, the Sublease, the Facility Lease, the Continuing Disclosure Agreement, the Purchase Contract, the Official Statement, the Swap Agreement and the Series 2007 Bonds and the consummation of the transactions contemplated hereby and to consummate the issuance, sale and delivery of the Series 2007 Bonds. The Authorized Officers are hereby further authorized and directed, individually or jointly, to execute and deliver, on behalf of the City, any other agreements, certificate, consent, request, approval, notice, amendment, confirmation, supplement or revision permitted or required to be delivered pursuant to the documents authorized hereby or otherwise as may be necessary or desirable in connection with the financing of the 2007 Project without further authorization by this City Council including, without limitation, a tax certificate, agreements relating to the engagement of verification agents, printers, bond insurers or other credit providers, one or more investment agreements (or amendments thereto), guaranteed investment contracts, forward delivery agreements or other investment vehicles for moneys in any of the funds or accounts held by the Trustee. Any actions heretofore taken by such officers in furtherance of any of the transactions authorized herein are hereby ratified, confirmed and approved.

Section 12. Effective Date. This Resolution shall take effect immediately upon its adoption by this City Council

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd of April, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-217

A RESOLUTION ACCEPTING THE REPORT ON XCLAMATION FEST 2006, AND APPROVING XCLAMATION FEST 2007, HOSTED BY CHRIS RICCI PRESENTS, INC. IN DOWNTOWN MODESTO ON SATURDAY, JULY 21, 2007.

WHEREAS, on April 25, 2000, by Resolution No. 2000-189, the City Council approved a license agreement with Chris Ricci Presents, Inc., to hold an annual Xclamation Fest, and

WHEREAS, the Safety and Communities Committee met on December 5, 2005, and supported approval of the Xclamation Fest 2006 for July 22, 2006, and

WHEREAS, on January 24, 2006, by Resolution No. 2006-065, the City Council approved Xclamation Fest 2006, hosted by Chris Ricci Presents, Inc. in downtown Modesto on Saturday, July 22, 2006, and

WHEREAS, the seventh annual Xclamation Fest was held on Saturday, July 22, 2006, and

WHEREAS, this downtown music and arts festival was successful both financially and for providing a safe, entertaining festival for Modesto residents, and

WHEREAS, the proposed date for the 2007 annual Xclamation Fest is Saturday, July 21, 2007, and

WHEREAS, Mr. Ricci coordinates all Xclamation Fest events with the Modesto Police Department, the Downtown Improvement District, and the Modesto Centre Plaza staff in order to secure approvals and coordination for the event, and

WHEREAS, this event is of financial benefit to the City of Modesto and downtown merchants, and

WHEREAS, at its March 5, 2007, meeting, the Safety and Communities Committee, supported Xclamation Fest 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts staff's report on Xclamation Fest 2006, held in Downtown Modesto on Saturday, July 22, 2006.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves Xclamation Fest 2007, to be held in Downtown Modesto on Saturday, July 21, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-218

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF BEN PARROTT FROM THE DISABLED ACCESS APPEALS BOARD

WHEREAS, BEN PARROTT was appointed a member of the Disabled Access Appeals Board on September 5, 2006, and

WHEREAS, BEN PARROTT has tendered his resignation from the aforementioned committee, and

WHEREAS, BEN PARROTT has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of BEN PARROTT from the Disabled Access Appeals Board hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to BEN PARROTT for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-219

A RESOLUTION APPROVING THE ALLOCATION OF TWO MAINTENANCE WORKER II POSITIONS IN THE PARKS, RECREATION, AND NEIGHBORHOODS DEPARTMENT, ORGANIZATION 3522, FOR THE WEED, LITTER, AND BLIGHT REMOVAL PROGRAM.

WHEREAS, on February 13, 2007, the City Council approved a supplemental General Fund budget package which included $100,000 for the weed, litter, and blight removal program, and

WHEREAS, the allocation of two Maintenance Worker II positions for the weed, litter, and blight removal program was inadvertently deleted from supplemental budget package although funding was allocated, and

WHEREAS, it is necessary to include these positions in order to accomplish the Council's stated goal of having a clean, attractive, and well landscaped community,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the allocation of two Maintenance Worker II positions for the weed, litter, and blight removal program.

BE IT FURTHER RESOLVED that the Finance and Personnel Departments are hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-220

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE PURCHASE OF CAST IRON AND DUCTILE IRON FITTINGS AND SPOOLS TO THREE COMPANIES: 1) FERGUSON WATERWORKS, MODESTO, CA, 2) KENKO UTILITY SUPPLY, INC., TRACY, CA, AND 3) ROBERTS & BRUNE CO., TRACY, CA, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $154,921

WHEREAS, the Finance Department, Central Stores Division inventories various materials for use by the Public Works Department, Water Division for City services and projects, including cast iron and ductile iron fittings and spools, and

WHEREAS, these fittings and spools are used to connect water mains to residential homes and businesses, and

WHEREAS, these fittings and spools are purchased from an annual agreement as "inventory stock", and warehoused by the Central Stores Division for release to the Water Division, and

WHEREAS, on November 14, 2006, the Council approved Resolution No. 2006-710 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of Cast Iron and Ductile Iron Fittings and Spools for the Public Works Department, Water Division, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on November 16, 2006, the Purchasing Division issued Request for Bid No. 0607-27 for the purchase of Cast Iron and Ductile Iron Fittings and Spools to thirty-six (36) prospective bidders, eighteen (18) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on January 16, 2007, RFB's were formally opened in the City Clerk's office. Of the thirty-six (36) prospective bidders, five (5) companies chose to respond, and

WHEREAS, based on being deemed the lowest responsive and responsible bids, City staff recommends the award of bid and contracts for the purchase of Cast Iron and Ductile Iron Fittings and Spools to three companies: 1) Ferguson Waterworks, Modesto, CA, 2) Kenko Utility Supply, Inc., Tracy, CA, and 3) Roberts & Brune Co., Tracy, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $154,921, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of Cast Iron and Ductile Iron Fitting and Spools conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the purchase of Cast Iron and Ductile Iron Fitting and Spools to three companies: 1) Ferguson Waterworks, Modesto, CA, 2) Kenko Utility Supply, Inc., Tracy, CA, and 3) Roberts & Brune, Tracy, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $154,921.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue purchase agreements for the purchase of Cast Iron and Ductile Iron Fitting and Spools to three (3) companies, 1) Ferguson Waterworks, Modesto, CA, 2) Kenko Utility Supply, Inc., Tracy, CA, and 3) Roberts & Brune, Tracy, CA, for a two (2) year

agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $154,921.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-221

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF ROCK, SAND AND GRAVEL FOR A ONE-YEAR AGREEMENT WITH A ONE-YEAR CONTRACT EXTENSION OPTION, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $87,000.

WHEREAS, rock, sand and gravel is stocked by the Central Stores Division of the Finance Department and is then issued to requesting departments, and

WHEREAS, rock, sand and gravel is used for rock well drainage, sand for parks, street maintenance operations, and wastewater pond erosion control, and

WHEREAS, Central Stores will purchase the required rock, sand and gravel from account 7110-120-8311-0439 and departments will then purchase the rock, sand and gravel from Central Stores with charges being made to appropriate accounts, and

WHEREAS, based on past usage and current pricing, the total cost for rock, sand and gravel requirement for FY 07/08 is estimated at $87,000, and

WHEREAS, Modesto Municipal Code Section 8.3-203 requires all purchases which meet or exceed $50,000 for materials and equipment or contractual services to be formally bid, and

WHEREAS, by issuing RFB's, the City will achieve the best value for rock, sand and gravel and meet Modesto Municipal Code requirements for formal bids, and

WHEREAS, the funds for inventory purchases have been appropriated in account number 7110-120-8311-0439 (INVENTORY),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal Request for Bids (RFB) for the

purchase of rock, sand and gravel for a one-year agreement with a one-year contract extension option, at the sole discretion of the City, for an estimated annual cost of $87,000 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for rock, sand and gravel to be opened in the Office of the City Clerk, 1010 10TH Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the bids are opened, they shall be tabulated and analyzed and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-222

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE, REMOVAL AND REPLACEMENT OF CARPETING FOR THE MODESTO CENTRE PLAZA TO HOUSE OF CARPETS, MODESTO, CA FOR A TOTAL ESTIMATED COST OF $111,945.

WHEREAS, the current carpet in the lobby and the downstairs meeting rooms at the Modesto Centre Plaza is eight (8) years old, and

WHEREAS, the carpet has begun to deteriorate in numerous areas along with several permanent stains and burn marks, and

WHEREAS, staff feels that the condition of the carpet is beginning to detract from the overall favorable appearance of the Centre Plaza. The carpet deterioration can cause a safety hazard to the public and staff, and

WHEREAS, the purchase will include removal and disposal of the existing carpet and labor for the installation of new carpet, and

WHEREAS, on September 5, 2006, by Resolution No. 2006-540 the Council authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase, removal and replacement of carpeting for the Modesto Centre Plaza, and

WHEREAS, on September 15, 2006, the Purchasing Division issued Request for Bid (RFB) No. 0607-11 for the purchase, removal and replacement of carpeting for the Modesto Centre Plaza to twenty-two (22) prospective bidders, eighteen (18) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on October 10, 2006, a formal bid opening was held in the City Clerks office. Of the twenty-two (22) prospective bidders, no companies chose to respond, and

WHEREAS, on December 5, 2006, a Request for Information (RFI) was sent to seven (7) carpet manufacturers, and

WHEREAS, each manufacturer presented their carpet samples, warranties and recycle programs available. A site walk through was provided to each manufacturer and samples were obtained on specific collections reviewed by the staff at the Modesto Centre Plaza. The RFI process allowed the bid specification to meet the needs of the Modesto Centre Plaza, and

WHEREAS, on February 5, 2007, Modesto Centre Plaza staff pre-approved four (4) carpet manufacturers and their specific collections to take part in the RFB process, and

WHEREAS, on February 16, 2007, the Purchasing Division issued Request for Bids No. 0607-35 for removal and replacement of carpeting for the Modesto Centre Plaza to twenty seven (27) prospective bidders, nineteen (19) of which were local companies, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on February 25, 2007, a mandatory bidder's conference/site visit was conducted. Six (6) prospective bidders chose to attend and participate further in the RFB process, and

WHEREAS, on March 20, 2007, RFB's were formally opened in the City Clerk's office. Of the six (6) prospective bidders, three (3) companies chose to respond, one (1) was a local vendor. All bidders provided responsive and responsible bids. The low bid came in approximately 28.7% higher than the $87,073 cost estimate submitted to Council, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services

to be formally bid. The award of bid and contract for the purchase, removal and replacement of carpeting for the Modesto Centre Plaza conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase, removal and replacement of carpeting for the Modesto Centre Plaza, to House of Carpets, Modesto, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for the removal and replacement of carpeting for the Modesto Centre Plaza, to House of Carpets, Modesto, CA, for a total estimated cost of $111,945.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-223

A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown in **Schedule A.**

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, 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
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Schedule A

City Manager's Office

CPS Recruitment

From:	Contingency Reserve Account #1300-800-8000-8003	$(30,000)
To:	City Council Account #0100-010-0101-0235	$ 30,000

Parks, Recreation & Neighborhoods

John Muir Park

From:	Parks Fund Revenue Account #1400-310-3100-8107	$17,470
To:	Park Partners Construction Acct #1400-310-P734-6040	$17,470

Public Works Department

Federal Pavement and Maintenance Project – 9th, H and I Streets

Revenues

To:	MY-2370-430-H404-3532 - Federal RSTP	$784,585

Appropriations

From:	MY-2370-430-H475-6053 – Available Matching Funds	$144,353
To:	MY-2370-430-H404 – Fed Pavemt Mtc 9th, H, I Str	$847,839

Transfers

From:	MY-2370-700-H404-9070 – Reduce Secondary Match	$(144,353)
To:	MY-2370-700-H475-9237 – Return Match to Primary	$ 144,343

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-224

A RESOLUTION AUTHORIZING THE ISSUANCE OF FORMAL REQUEST FOR BIDS FOR ROOF REPLACEMENT AT FIRE STATION 5 AND FIRE STATION 10, FOR AN ESTIMATED COST OF $120,000.

WHEREAS, Station 5's roof was last replaced in 1991, and

WHEREAS, at the time of installation the warranty on this roof was 10 years, and

WHEREAS, the roof has been in place for 16 years and has deteriorated to a point where it is no longer cost effective to repair, and

WHEREAS, Station 10's roof has not been replaced since the Modesto Fire Department moved into the Station in 1993, and

WHEREAS, the roof had been in place some time prior to our arrival, and

WHEREAS, the roof has deteriorated to a point where it is no longer cost effective to repair, and

WHEREAS, a formal Request for Bids (RFB) must be issued for roof replacement at Fire Station 5 and Fire Station 10 for an estimated cost of $120,000, and

WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all purchases meeting or exceeding $50,000 for materials, equipment or contractual services to be formally bid, and

WHEREAS, the funds for the roof replacements have been appropriated in account number 0100-180-1810-5xxx, Roof Replacements.

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

SECTION 1. The issuance of a Formal Request for Bids for roof replacement at Fire Station 5 and Fire Station 10 for an estimated cost of $120,000.

SECTION 2. The City Clerk is hereby authorized to call for public competitive sealed bids for roof replacement at Fire Station 5 and Fire Station 10 to be opened in the Office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 3. After the sealed bids are opened they will be tabulated and analyzed by the Fire Department and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-225

A RESOLUTION APPROVING A CONTRACT BETWEEN THE CITY OF MODESTO AND AMERICAN MEDICAL RESPONSE (AMR) FOR A PERIOD OF THREE (3) YEARS WITH ONE (1) YEAR EXTENSION OPTIONS, WHEREIN AMR COMPENSATES THE CITY OF MODESTO $72,000 PER YEAR FOR FIRST RESPONDER AND RELATED MEDICAL SERVICES, PERFORMED BY THE MODESTO FIRE DEPARTMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, in July 2003, the City of Modesto and AMR entered into a "Pilot" Advanced Life Support (ALS) Program, and

WHEREAS, for over two years, the Modesto Fire Department has been delivering ALS services from one engine company at an annual cost of approximately $54,000, and

WHEREAS, it has been the goal of the City to operate the ALS program on a cost neutral basis, and

WHEREAS, On November 9, 2005, the Modesto City Council adopted Resolution #2005-553, approving a 1-year contract between the City of Modesto and AMR, and

WHEREAS, the purpose of the contract is to support the Modesto Fire Department in the delivery of First Responder Services, and

WHEREAS, the Modesto Fire Department has completed the original 1-year term of the contract, and

WHEREAS, both parties feel that the mutual benefit of this contract warrants the establishment of a 3-year contract, with the option of 1-year extensions available upon written agreement of both parties,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the contract between the City of Modesto and American medical

Response for a period of three (3) years with one (1) year extension options, wherein AMR compensates the City of Modesto $72,000 per year for first responder and related medical services performed by the Modesto Fire Department.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-226

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF A 2000 GALLON WATER TRUCK FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, SOLID WASTE DIVISION COMPOST FACILITY, FOR A TOTAL ESTIMATED COST OF $65,000.

WHEREAS, in November 2006, the Purchasing Division put out a sealed bid purchase option for the 1991 Caterpillar D300B water truck that was at the Compost Facility since the truck was not being operated, and had not been for many months, due to safety and mechanical issues specifically related to the site, and

WHEREAS, due to new air board regulations, the truck was also going to be out of compliance and it would have been costly to retrofit, and

WHEREAS, in January 2007, the water truck sold for $26,000 at The Auction Yard and the net revenue from the sale of the truck, $24,245.00, was placed in the compost fleet account for the sole purpose of applying it to the purchase of a new water truck, and

WHEREAS, during supplemental budget review, the allocation of existing and new funds was approved by the City Council for the purchase of a new water truck, and

WHEREAS, the San Joaquin Valley Air Pollution Control District and the California Integrated Waste Management Board have existing regulations regarding air quality issues that are mandatory for the Compost Facility to comply with, and

WHEREAS, more restrictive air quality regulations are on the horizon making it imperative that the Compost Facility minimize dust emissions, and

WHEREAS, the essential mechanism for controlling dust emissions and avoiding violations and fines from the regulatory agencies is having a water truck regularly and routinely keeping the site wet, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, funds were approved and are budgeted and available in account 6290-355-5222-5700 for the purchase of a Water Truck in FY 06/07,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of a 2000 Gallon Water Truck for the Parks, Recreation and Neighborhoods Department, Solid Waste Division compost facility, for a total estimated cost of $65,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-227

A RESOLUTION APPROVING FUNDING IN THE AMOUNTS OF $364,327 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICES, $37,500 IN CDBG REVOLVING LOAN FUND FOR HOMELESS SERVICES, AND $98,650 IN EMERGENCY SHELTER GRANT (ESG) FUNDING FOR FY 2007-2008, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City receives a Community Development Block Grant (CDBG) and an Emergency Shelter Grant (ESG), and

WHEREAS, the City receives these grants annually because of its population size, number of households living below the poverty level, and the number of housing units that are considered substandard, and

WHEREAS, a maximum of fifteen percent (15%) of the City's available CDBG entitlement plus an amount up to 15% of the prior year's program income, and up to 15% of the prior year's program income from the Revolving Loan Fund may be allocated for the purpose of providing assistance that is consistent with the functions of CDBG funding to very-low, low and moderate income persons and families residing within the city limits of Modesto, and

WHEREAS, for Fiscal Year 2007-2008, 15% of the CDBG entitlement and program income is $364,327, and 15% of the prior year program income from the Revolving Loan Fund is $37,500, and

WHEREAS, the available ESG entitlement for Fiscal Year 2007-2008 is $98,560, and

WHEREAS, at its March 23, 2007, meeting, the Citizens Housing & Community Development Committee (CH&CDC) recommended allocation of $364,327 in available CDBG

entitlement and program income funds to qualified non-profit agencies for public services as set forth in **Exhibit "1",** attached hereto and incorporated by reference, and

WHEREAS, CH&CDC also recommended that $37,500 be allocated for services for the homeless as set forth in **Exhibit "2"**, attached hereto and incorporated by reference, and

WHEREAS, the CH&CDC recommended $98,560 be allocated for emergency shelter services as set forth in **Exhibit "3"**, attached hereto and incorporated by reference, and

WHEREAS, at a public meeting on March 23, 2007, the Citizens Housing and Community Development Committee recommended funding as set forth in Exhibits "1", "2" and "3" attached hereto and incorporated by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of $364,327 in Community Development Block Grant (CDBG) funds for public services for Fiscal Year 2007-2008 as set forth in Exhibit "1".

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of $37,500 in CDBG Revolving Loan funds for services for the homeless for Fiscal Year 2007-2008 as set forth in Exhibit "2".

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of Emergency Shelter Grant (ESG) funds of $98,560 for emergency shelter services for Fiscal Year 2007-2008 as set forth in Exhibit "3".

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or his authorized designee is hereby authorized to execute the agreements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Public Service Applications

Exhibit 1

Total Available:	$	364,327
Total Requested:	$	543,163
% Available Vs Requested		67.0751%

Organization	Program	Request	Average Score	% Score	Rank	Recommended Funding	% of Request Funded
Second Harvest Food Bank	Food Assistance Program	$40,000	44	88%	1	$37,235	93.09%
DRAIL	Assistive Technology	$20,000	43	86%	2	$18,167	90.84%
American Red Cross	Emergency Shelter Svces	$21,203	42	84%	3	$18,812	88.72%
Healthy Aging	Young at Heart	$35,312	42	84%	3	$31,329	88.72%
Howard Training Center	Senior Meals Program	$16,000	42	84%	3	$14,195	88.72%
Parent Resource Center	ABC's of Child Care	$19,318	41	82%	6	$16,731	86.61%
Children's Crisis Center	Marsha's N.E.A.T.Program	$31,200	40	80%	7	$26,363	84.50%
Center for Human Services	Hutton House	$27,388	39	78%	8	$22,563	82.38%
Center for Human Services	Pathways	$20,000	38	76%	9	$16,054	80.27%
Children's Crisis Center	Cricket's N.E.A.T. Program	$24,960	38	76%	9	$20,036	80.27%
Community Housing & Shelter	Supportive Services	$34,166	38	76%	9	$27,426	80.27%
Stanislaus Literacy Center	West modesto English Tutoring	$32,500	37	74%	12	$25,402	78.16%
Community Housing & Shelter	Families in Recovery	$29,366	36	72%	13	$22,332	76.05%
Project Sentinel	Fair Housing	$89,000	36	72%	13	$67,682	76.05%
Total Requests Recommended for Funding		$440,413				$364,327	
Not Recommended for Funding							
Central Valley Opportunity Ctr	Language/Job Lab	$25,000	28	56%	15		
Stan Multi-Cultural/KK collab	Heres to your health 2	$77,750	24	48%	16		

Notes:
The percent of each request funded is higher than the percent score, since allocations based on scores would have been less than funding available.

Homeless Applications

Exhibit 2

Total Available:	$	37,500
Total Requested:	$	128,460
% Available vs Requested		29.192%

Organization	Program	Request	Recommended Funding	% of Request Funded
Community Housing & Shelter	Supportive Services	$42,560	$ 12,424	29.2%
Children's Crisis Center	Cricket Homeless Shelter	$10,140	$ 2,960	29.2%
Interfaith Ministries	Santa Fe Winter Shelter	$23,260	$ 6,790	29.2%
The Salvation Army	Berberian Winter Shelter	$52,500	$ 15,326	29.2%
		$128,460	$ 37,500	

Notes:
All Applications were ranked equally.

ESG Applications

Exhibit 3

Total Available:	$	98,560
Total Requested:	$	191,791
% Requested Vs Available		51.3893%

Organization	Program	Request	Average Score	% Score	Rank	recommended Funding	% of request Funded	Comments
Interfaith Ministries	Santa Fe Winter Shelter	$50,191	44	88%	1	$37,046	73.81%	
Community Housing & Shelter	Case Management for Prevention	$55,260	38	76%	2	$26,939	48.75%	$14,700 For Vouchers and Passes; balance for salaries
Center for Human Services	Hutton House	$13,860	37	74%	3	$6,608	47.68%	
The Salvation Army	Berberian Winter Shelter	$60,000	36	72%	4	$27,967	46.61%	
		$179,311				$98,560		
Not Recommended for Funding								
Children's Crisis Center	Sawyer's N.E.A.T. Program	$12,480						

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-228

A RESOLUTION APPROVING $12,282 IN FUNDING FOR THE HOWARD TRAINING CENTER AS THE PROVIDER OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICES SENIOR MEALS PROGRAM FOR FISCAL YEAR 2006-2007, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, on May 2, 2006, by Resolution No. 2006-274, the City Council approved the allocation of the CDBG public service grant funding for Fiscal year 2006-2007, which included an allocation of $12,282 in CDBG funds to The Salvation Army to be utilized for a Senior Meals Program, and

WHEREAS, on January 9, 2007, the City of Modesto received a letter from The Salvation Army (S.A.) stating that S.A. would not be providing the Senior Meals Program, indicating that S.A. was no longer contracted with Stanislaus County to provide the Senior Meals Program, and stating that S.A. would not be using the City of Modesto's CDBG funds allocated to the Senior Meals Program, and

WHEREAS, on February 16, 2007, the City of Modesto issued an RFP for the Senior Meals Program, and

WHEREAS, the CDBG Senior Meals Program funds must be used to ensure that senior citizens are able to meet their nutritional needs and maintain the highest possible quality of life, with the goal is to reduce dietary inadequacy and social isolation among older adults, and

WHEREAS, proposals were due to the City of Modesto by February 23, 2007, at 5:00 p.m., and

WHEREAS, one proposal for the Senior Meals Program funding was received in response to the RFP from the Howard Training Center and it is a complete application, and

WHEREAS, the Howard Training Center is requesting the funding for the following CDBG eligible activities:

- Purchase portable transport equipment and hot sheets to enable at least 150 Modesto seniors to receive hot fresh meals instead of frozen meals.
- Provide Modesto seniors attending congregate sites hot, fresh meals.
- Open 1 new congregate site in an area not currently served by congregate meals program (west, north or east Modesto).

and

WHEREAS, the Citizens Housing and Community Development Committee met on March 23, 2007 and supported the recommendation to award funding to the Howard Training Center for the Senior Meals Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves $12,282 in funding for the Howard Training Center as the provider of the Community Development Block Grant (CDBG) Public Services Senior Meals Program for fiscal year 2006-2007.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-229

A RESOLUTION APPROVING A GRANT APPLICATION FOR $1,000,000 FROM THE STATE OF CALIFORNIA'S DEPARTMENT OF WATER RESOURCES CALFED WATERSHED PROGRAM 2007 TO CONTINUE THE RESTORATIVE WORK ON THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE GRANT APPLICATION

WHEREAS, the State of California's Department of Water Resources CALFED Watershed Program has made funding available through its Watershed Program 2007 through Proposition 50, and

WHEREAS, the continuation of the restorative work within the Tuolumne River Regional Park (the Project) is consistent with the CALFED Watershed Program mission and procedures, and

WHEREAS, the City of Modesto, if awarded grant funding, will enter into a contract with the State of California for the Project, and

WHEREAS, said adopted procedures established by the California Department of Resources require the City to certify by resolution the approval of a grant application and the availability of eligible matching funds prior to submission of said grant application to the State, and

WHEREAS, eligible matching funds are available in Capital Improvement Project P844, TRRP Gateway Phase I & II, in the amount of $1,000,000 from contributions from the City of Modesto's Capital Facilities Fees and Stanislaus County's Public Facilities Fees,

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

1. The filing of an application for $1,000,000 in local assistance funds from the State of California's Department of Water Resources through the CALFED Watershed Program 2007 is hereby approved.

2. The Council hereby certifies that the application has or will have sufficient funds to operate and maintain the Project.

3. The Council hereby certifies that the City of Modesto staff has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and

4. The City Manager, or his designee, is hereby authorized as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, and payment requests and so on, which may be necessary for the completion of the Project upon acceptance of said grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Amended by Resolution 2007-445 on 7/24/07

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-230

A RESOLUTION APPROVING A GRANT APPLICATION FOR $50,000 IN FUNDING FROM THE LAND AND WATER CONSERVATION FUND FOR A PORTION OF THE TRAIL IN THE GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, the Congress under Public law 88-578 has authorized the establishment of a Federal Land and Water Conservation Fund Grant-In-Aid program and its political subdivisions for acquiring lands and developing facilities for public outdoor recreation purposes, and

WHEREAS, the California Department of Parks and Recreation is responsible for administration of the program in the State, setting up necessary rules and procedures governing applications by local agencies under the program, and

WHEREAS, said adopted procedures established by the California Department of Parks and Recreation require the applicant to certify by resolution the approval of a grant application and the availability of eligible matching funds prior submission of said grant application to the State, and

WHEREAS, the proposed Tuolumne River Regional Park Gateway Project is consistent with the Statewide Comprehensive Recreation Resources Plan *California Outdoor recreation Plan – 2002,* and

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

1. The filing of a grant application for $50,000 from the Federal Land and Water Conservation Fund Program is hereby approved.

2. The Council hereby certifies that said agency has matching funds from the following source: Funding from the City of Modesto and Stanislaus County CFF/PFF funding of $2 million to TRRP; and that said agency can finance 100 percent of the Project, half of which will be reimbursed.

3. The Council hereby certifies that the Project is compatible with the land use plans of those jurisdictions immediately surrounding the Project.

4. The City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-231

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR PROPOSALS (RFP) FOR THE PURCHASE OF A PARKING GARAGE AUTOMATED ATTENDANT SYSTEM (HARDWARE/SOFTWARE) FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, BUILDING AND PARKING SERVICES DIVISION, FOR A TOTAL ESTIMATED COST OF $801,250.00.

WHEREAS, in September 2005, the City hired Walker Parking Consultants (Walker) to complete an assessment of the City owned parking facilities, and

WHEREAS, Walker's assessment included the financial condition of the Building and Parking Services Division, a review of the current parking agreements, rates, equipment, management, administration, operations, and the feasibility of privatization of the parking system, and

WHEREAS, on September 12, 2006 by Resolution No. 2006-558, the Council authorized the Parks, Recreation and Neighborhoods Department to move forward with implementation of the Walker recommendations, and

WHEREAS, the 9th, 10th, and 11th street parking garages and surface parking lots are to be upgraded to include the installation of an automated attendant system, and

WHEREAS, the automated attendant system will be pay on foot stations that will move the Building and Parking Services Division to a 24 hour 7 day per week program with fewer employees, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a Formal Request for Proposals for the purchase of a parking garage automated attendant system (hardware/software) for the Parks, Recreation and

Neighborhoods Department, Building and Parking Services Division, for a total estimated cost of $801,250.00 will conform to MMC Section 8-3.203,

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

SECTION 1. The Purchasing Manager is hereby authorized to issue Formal Request for Proposals for the purchase of a parking garage automated attendant system (hardware/software) for the Parks, Recreation and Neighborhoods Department, Building and Parking Services Division, for a total estimated cost of $801,250.00.

SECTION 2. The City Clerk is hereby authorized to call for public competitive sealed proposals for the purchase of a parking garage automated attendant system to be opened in the Office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed proposals in the time, form, and manner provided by law.

SECTION 3. After the sealed proposals are opened they will be tabulated and analyzed by the Purchasing Division and the Parks, Recreation and Neighborhoods Department and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-232

A RESOLUTION ACCEPTING A MINI-GRANT IN THE AMOUNT OF $65,000 FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY FOR THE CALIFORNIA CLICK IT OR TICKET (CIOT) PROJECT MINI-GRANT FOR OVERTIME SEAT BELT ENFORCEMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, the Modesto Police Department submitted an application in the amount of $65,000 to the California Office of Traffic and Safety for a California Click It or Ticket (COIT) project mini-grant, and

WHEREAS, the program is for a 3-week period and allows for overtime seat belt enforcement, and

WHEREAS, the Police Department, in a combined effort with state and local law enforcement is in support of the national Click It or Ticket mobilization, and

WHEREAS, acceptance of this grant enhances Healthy and Safe Strategic Action Plan, H.1.B.8., which calls for obtaining public service grants, and

WHEREAS, the total mini-grant is $65,000 with no local match required of the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the mini-grant in the amount of $65,000 from the California Click It or Ticket (CIOT) project mini-grant for overtime seat belt enforcement.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-233

A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 BUDGET TO APPROPRIATE $65,000 FOR REVENUE AND EXPENSE FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY FOR THE CALIFORNIA CLICK IT OR TICKET (CIOT) PROJECT MINI-GRANT FOR OVERTIME SEAT BELT ENFORCEMENT.

WHEREAS, the City of Modesto Police Department was awarded funding in the sum of $65,000 from the California Office of Traffic Safety for the California Click It or Ticket (CIOT) project mini-grant, and

WHEREAS, the mini-grant funds were made available for overtime seat belt enforcement, and

WHEREAS, the Police Department wishes to enforce seat belt compliance, and

WHEREAS, the total mini-grant will be $65,000, with no local match required of the City, and

WHEREAS, the Council of the City of Modesto authorized the City Manager, or his designee, to accept the California Click It or Ticket (CIOT) project mini-grant funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the 2006/07 Operating Budget is hereby amended as follows:

Appropriate:

To:	0410-190-2997-0130	$65,000	Overtime

Revenue:

To:	0410-190-2997-3490	$65,000	Click It or Ticket Mini-Grant

BE IT FURTHER RESOLVED that the Finance Director, or his authorized

designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-234

A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF TWO UNUSABLE CITY OF MODESTO POLICE KAWASAKI MOTORCYCLES TO THE MODESTO POLICE HISTORICAL SOCIETY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, in August 2003, the Modesto Police Historical Society was founded, and

WHEREAS, the Modesto Police Historical Society is a non-profit organization that functions under the auspices of the Stanislaus Community Foundation, and

WHEREAS, Modesto Police Department has two Police Kawasaki KZ1000 Motorcycles that are currently unusable, and

WHEREAS, the Modesto Police Historical Society would like to preserve, refurbish, and display these police motorcycles at the McHendry Museum and other public events for the common good, and

WHEREAS, Modesto Police Department feels this educates and creates a greater awareness between the community and law enforcement, and

WHEREAS, the Modesto Police Historical Society will purchase the two motorcycles for $1 each, pursuant to Section 801(r) of the City Charter,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement for the purchase of two unusable City of Modesto Police Kawasaki Motorcycles to the Modesto Police Historical Society.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-235

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF A WALK-IN FREEZER/COOLER/DRY STORAGE CONTAINER FOR THE MODESTO POLICE DEPARTMENT, FOR A TOTAL ESTIMATED AMOUNT OF $53,500.

WHEREAS, the Modesto Police Department uses refrigeration units in the Property and Evidence Facility for the cold storage of biological evidence, and

WHEREAS, currently the department uses one industrial and four household refrigerators, and two chests, and three up-right freezers, and

WHEREAS, these units are at capacity and no longer are an efficient or proper method for storing biological evidence, and

WHEREAS, walk-in refrigeration units are desired because the temperature at which evidence is stored may be monitored, they are efficient to operate, and provide shelving options to maximize storage capacity and retrieval of inventory, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Bid for the purchase of a walk-in freezer/cooler/dry storage container for the Police Department conforms to the code requirements, and

WHEREAS, funds are budgeted and made available in 0400-190-2923-5012 for the purchase of walk-in freezer/cooler/dry storage container, in FY 06/07,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal Request for Bids (RFB)

for the purchase of a walk-in freezer/cooler/dry storage container for the Modesto Police Department, for a total estimated amount of $53,500.

BE IT FURTHER RESOLVED THAT the City Clerk is hereby authorized to call for public competitive sealed bids for the purchase of a walk-in freezer/cooler/dry storage container for the Modesto Police Department, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law. After the sealed bids are opened, they shall be tabulated and analyzed and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-236

A RESOLUTION AMENDING THE FISCAL YEAR 2006/2007 OPERATING BUDGET TO APPROPRIATE $13,500 IN REVENUES AND EXPENSES FROM THE ASSET FORFEITURE FUNDS TO FULLY FUND THE PURCHASE OF A WALK-IN FREEZER/COOLER/DRY STORAGE CONTAINER.

WHEREAS, the Modesto Police Department uses refrigeration units in the Property and Evidence Facility for the cold storage of biological evidence, and

WHEREAS, currently the department uses one industrial and four household refrigerators, and two chests, and three up-right freezers, and

WHEREAS, these units are at capacity and no longer are an efficient or proper method for storing biological evidence, and

WHEREAS, walk-in refrigeration units are desired because the temperature at which evidence is stored may be monitored, they are efficient to operate, and provide shelving options to maximize storage capacity and retrieval of inventory, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Bid for the purchase of a walk-in freezer/cooler/dry storage container for the Police Department conforms to the code requirements, and

WHEREAS, the 2006/2007 Operating Budget will be amended as indicated:

Amend budget from Asset Forfeiture:

		Budget	Increase	Revised Budget
Revenue	0400-190-2923-7202	0	$13,500	$13,500
Expenses	0400-190-2923-5012	$40,000	$13,500	$53,500

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006/2007 Operating Budget to appropriate $13,500 in revenues and expenses from the asset forfeiture funds to fully fund the purchase of a walk-in freezer/cooler dry storage container.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-237

A RESOLUTION ACCEPTING THE U.S. DEPARTMENT OF JUSTICE COPS MORE 2002 GRANT MODIFICATION TO UTILIZE THE COST SAVINGS OF $153,363.83 TO PURCHASE MOBILE ID'S AND CRIMINAL INTELLIGENCE SOFTWARE AND ASSOCIATED EQUIPMENT.

WHEREAS, the U.S. Department of Justice COPS MORE 2002 grant was awarded for $500,000 for the acquisition, installation, software and licensing of thirty (30) mobile data computers in thirty (30) police operation vehicles, and purchase of a Live Scan Fingerprint System, and

WHEREAS, because of the reduction in technology prices throughout the term of the application, prices for the Live Scan and mobile data computers fell to almost half of what was budgeted, and

WHEREAS, the project was accomplished for approximately $346,636.17, and

WHEREAS, on August 31, 2004, the U.S. Department of Justice granted the City of Modesto a time extension and budget modification to expend the remaining funds ($153,363.83) for an inter-agency integrated automated field reporting system, which is part of the Integrated Public Safety System, and

WHEREAS, the Modesto Police Department requested and was granted a time extension (7/31/2007) and budget modification to utilize the remaining $153,363.83 for:

35 Mobile ID's licensing, and associated equipment	$ 76,019.77
Intelligence Tracking Software	$ 31,369.09
9 Mobile Data Computers for Intelligence Units	$ 45,974.97
TOTAL	$153,363.83

WHEREAS, the Intelligence Task Force Team evaluated seven (7) criminal intelligence tracking software products and only one (1) evaluated product was advertised as being 28 C.F.R. Part 23 compliant, and

WHEREAS funds are budgeted and available in the following account for the purchase of mobile ID's and Criminal Intelligence Tracking Software:

0400-190-2987-5401 COPS MORE 2002 $153,363.83

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes accepting the U.S. Department of Justice COPS MORE 2002 Grant modification to utilize the cost savings of $153,363.83 to purchase mobile ID's and Criminal Intelligence software and associated equipment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-238

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE THE SOLE SOURCE PROCUREMENT OF THIRTY-FIVE (35) LIVE SCAN DEVICES (MOBILE ID'S) FOR THE POLICE DEPARTMENT, TO COGENT SYSTEMS, SOUTH PASADENA, CALIFORNIA, FOR AN ESTIMATED COST OF $76,019.77, AND AUTHORIZE EXPENDIUTRE OF MAINTENANCE COSTS OF $19,550 AND $27,920 FOR THE SECOND AND THIRD YEAR'S MAINTENANCE FEES RESPECTIVELY.

WHEREAS, the Modesto Police Department received twenty (20) Live Scan Devices and forty (40) docking stations from Stanislaus County, which were funded through a Grant obtained by the County, and

WHEREAS, this equipment allows Modesto Police officers to electronically submit fingerprints to the Stanislaus County Sheriff's Office from the field for identification rather than transporting the subject to the Police Department or jail for identity verification, and

WHEREAS, the devices are used an average of 9 times a day saving officers the time required of 1.5 hours (approximated) per transport, and

WHEREAS, the twenty (20) Mobile ID's and forty (40) docking stations do not meet our deployment needs, and

WHEREAS, in October of 2006, the COPS Office permitted the reallocation of funding in the COPS More 2002 Grant so an additional thirty-five (35) Mobile ID's and associated equipment could be purchased for all patrol vehicles and several special unit vehicles, and

WHEREAS, it is the department's desire to outfit the remaining vehicles in our fleet with the same Mobile ID's purchased by the County,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue the sole source procurement of thirty-five (35) Live Scan Devices (Mobile ID's) for the Police Department, to Cogent Systems, South Pasadena, California for a total estimated cost of $76,019.77 and authorize the expenditure of maintenance costs of $19,550 and $27,920 for the second and third year's maintenance fees respectively.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-239

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A REQUEST FOR QUOTATION (RFQ) FOR THE PURCHASE OF INTELLIGENCE TRACKING SOFTWARE FOR AN ESTIMATED COST OF $31,369.09.

WHEREAS, the U.S. Department of Justice COPS MORE 2002 grant was awarded for $500,000 for the acquisition, installation, software and licensing of thirty (30) mobile data computers in thirty (30) police operation vehicles, and purchase of a Live Scan Fingerprint System, and

WHEREAS, because of the reduction in technology prices throughout the term of the application, prices for the Live Scan and mobile data computers fell to almost half of what was budgeted, and

WHEREAS, the project was accomplished for approximately $346,636.17, and

WHEREAS, on August 31, 2004, the U.S. Department of Justice granted the City of Modesto a time extension and budget modification to expend the remaining funds ($153,363.83) to purchase mobile ID's and Criminal Intelligence software and associated equipment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a Request for Quotation (RFQ) for the purchase of Intelligence Tracking Software for an estimated cost of $31,369.09.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-240

A RESOLUTION ACCEPTING THE SOLE BRAND TO PURCHASE NINE (9) ITRONIX MOBILE DATA COMPUTERS FOR INTELLIGENCE UNITS FOR AN ESTIMATED COST OF $45,974.97.

WHEREAS, in October 2006, the Department of Justice, COPS MORE Administrator approved the Modesto Police Department's plans for reallocation of unexpended funds from the COPS MORE 2002 grant (#2002CLWX0033), created through a decrease in technology costs, and

WHEREAS, a portion of these funds was designated to procure nine (9) Itronix Mobile Digital Computers (MDC's) for an interjurisdictional Intelligence Unit, and

WHEREAS, the amount stipulated in the COPS 2002 Grant Redeployment for acquisition of MDC's for the interjurisdictional Intelligence Units is $45,974.97, and

WHEREAS, on December 5, 2006, by Resolution No. 2006-749 the Modesto City Council authorized a purchase to eighty-one (81) Mobile Data Computers by accessing the terms "piggybacking" of a competitively bid Sacramento Police Department contract, and

WHEREAS, the Modesto Police Department has utilized Itronix Go Book III's as part of a successful pilot program in place for the past 18 months, and

WHEREAS, the Police Department currently has eight (8) Itronix Go Book IIIs in production, and

WHEREAS, there are many advantages in standardizing the computerized equipment including built-in safety for the officers in the field, continuity from one

vehicle to another, reducing the learning curve for the officers in the field and technicians that support the equipment, and quicker deployment of MDC software upgrades/changes.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes accepting the Sole Brand to purchase nine (9) Itronix Mobile Data Computers for Intelligence Units for an estimated cost of $45,974.97 recommended.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-241

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR LANDSCAPE MAINTENANCE SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WASTEWATER AND STORMWATER DIVISIONS, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $40,000.

WHEREAS, landscape maintenance services are required weekly to maintain a professional appearance of City facilities, and

WHEREAS, these facilities include eight major utility locations: two treatment plants (Sutter Avenue and Jennings Road), four wastewater lift stations (Emerald, Woodland, Thousand Oaks and Scenic) and two storm basin (Cassidy Court and Carpenter Road), and

WHEREAS, these locations have been landscaped for the purpose of improving the appearance of City property at the treatment plants/storm basin locations and in residential neighborhoods where the wastewater lift stations are located, and

WHEREAS, awarding this landscape maintenance contract will keep these locations professionally maintained and aesthetically pleasing, and

WHEREAS, funds are budgeted as listed below:

Account Number	Department/Division	Amount
6210-480-5212-0212	Wastewater Division – Weed Abatement	$10,000
6210-480-5213-0235	Wastewater Division – Professional Services	$13,500
6210-480-5214-0235	Wastewater Division – Professional Services	$14,500
6280-480-5312-0212	Storm Water Division – Weed Abatement	$2,000
		$40,000

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal request for bids for landscape maintenance services for the Public Works Department, Wastewater and Stormwater Divisions, for a two (2) year agreement, with three (3) one-year extensions at the sole discretion of the City, for a total estimated annual cost of $40,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-242

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE KING-KENNEDY MEMORIAL CENTER KITCHEN AND AUDITORIUM RENOVATION PROJECT, ACCEPTING THE BID AND APPROVING A $598,008.00 CONTRACT WITH JHK CONSTRUCTION, FOR THE PROJECT TITLED "KING-KENNEDY MEMORIAL CENTER KITCHEN AND AUDITORIUM RENOVATION," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled "King-Kennedy Memorial Center Kitchen and Auditorium Renovation" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "King-Kennedy Memorial Center Kitchen and Auditorium Renovation" were opened at 11:00 a.m. on March 20, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $598,008.00 received from JHK Construction, be accepted as the lowest responsible bid and the contract be awarded to JHK Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of JHK Construction, in the amount of $598,008.00, and hereby awards JHK Construction, the contract titled "King-Kennedy Memorial Center Kitchen and Auditorium Renovation."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April 2007, by Councilmember Hawn, who

moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-243

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE MARSHALL PARK IMPROVEMENTS AND SYLVAN PARK SPLASH PAD PROJECT, ACCEPTING THE BID AND APPROVING A $247,910.41 CONTRACT WITH PLANNED ENVIRONMENTS, INC., FOR THE PROJECT TITLED "MARSHALL PARK IMPROVEMENTS AND SYLVAN PARK SPLASH PAD," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled "Marshall Park Improvements and Sylvan Park Splash Pad" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Marshall Park Improvements and Sylvan Park Splash Pad" were opened at 11:00 a.m. on April 3, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $247,910.41 received from Planned Environments, Inc., be accepted as the lowest responsible bid and the contract be awarded to Planned Environments, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Planned Environments, Inc., in the amount of $247,910.41, and hereby awards Planned Environments, Inc., the contract titled "Marshall Park Improvements and Sylvan Park Splash Pad."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-244

A RESOLUTION AMENDING THE FY 06-07 CAPITAL IMPROVEMENT PROGRAM BUDGET TO APPROPRIATE $222,619 FROM THE PARK FUND RESERVE TO PROJECT 1400-310-P493, PARK SYSTEM IMPROVEMENTS, TO FULLY FUND THE MARSHALL PARK PROJECT

WHEREAS, the FY 06-07 Capital Improvement Plan includes Project P493, Park System Improvements, and

WHEREAS, the FY 06-07 Capital Improvement Plan includes Project P469, Sylvan and Marshall Park Spray Grounds, and

WHEREAS, both of these projects were fully funded, and

WHEREAS, $222,619 in funding in project P493 was used to advance funding for a portion of the costs of a new scoreboard at John Thurman Field,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 06-07 Capital Improvement Program budget to appropriate $222,619 from the Park Fund Reserve to Project 1400-310-P493, Park System Improvements, to fully fund the project.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-245

A RESOLUTION ACCEPTING THE WORK BY COLLINS ELECTRICAL COMPANY, INC., FOR THE PROJECT TITLED "MODIFICATION OF TRAFFIC SIGNALS AT 4 INTERSECTIONS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENTS OF AMOUNTS TOTALING $312,996.00

WHEREAS, a report has been filed by the Public Works Director that the project titled "Modification of Traffic Signals at 4 Intersections" has been completed by Collins Electrical Company, Inc., in accordance with the contract agreement dated June 14, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Modification of Traffic Signals at 4 Intersections" is hereby accepted as complete from said contractor, Collins Electrical Company, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $312,996.00, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-246

A RESOLUTION DIRECTING STAFF TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6.

WHEREAS, Resolution No. 88-935 adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6.

WHEREAS, said assessment district was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6, City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 1, is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-247

A RESOLUTION DIRECTING STAFF TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISIONS UNITS 1 & 2.

WHEREAS, Resolution No. 89-460 adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Assessment District No. 2 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 & 2, and

WHEREAS, said assessment district was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 & 2, City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 2, is hereby directed to prepare and file an annual report in accordance with the

provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-248

A RESOLUTION APPROVING A SEWER SUBTRUNK LINE REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND PPC THOMAS TERRACE, LP, A CALIFORNIA LIMITED PARTNERSHIP, RELATED TO THE INSTALLATION OF 220 LINEAL FEET OF A 18" SEWER SUBTRUNK LINE IN THE AMOUNT NOT TO EXCEED $66,263.00 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, PPC THOMAS TERRACE, LP, a California Limited Partnership ("Developer"), is in the process of developing a commercial property located at the southwest corner of Merle Road and Claus Road, commonly known as Thomas Terrace, and

WHEREAS, in connection with the development of said Thomas Terrace, Developer is required to install 220 linear feet of a 18" Sewer Subtrunk Line and appurtenances thereto, located at the southwest corner of Merle Road and Claus Road ("Improvements"), and

WHEREAS, the Improvements are designed to serve a large portion of the Village One Specific Plan area, and

WHEREAS, the Improvements will serve other properties in addition to this development and, the other properties have or will pay fees to the City to assist in paying the cost of constructing the Improvements and the owners of said other properties have not participated in constructing the Improvements, and

WHEREAS, Modesto Municipal Code Section 4-4.802.1 authorizes the City to enter into an agreement with the Developer for reimbursement of costs of improvements, and

WHEREAS, Developer has requested, and City has agreed, that Developer be reimbursed for the actual costs in the amount of $66,263.00 required to construct the Improvements, and

WHEREAS, City will inspect the construction of the Improvements and will accept the Improvements as part of City's public Sewer system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Sewer Trunk Line reimbursement agreement between the CITY OF MODESTO and PPC THOMAS TERRACE, LP, a California Limited Partnership related to the installation of 220 lineal feet of 18" sewer subtrunk line in the amount not to exceed $66,263.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-249

A RESOLUTION APPROVING AN AGREEMENT WITH MINAGAR AND ASSOCIATES, INC., TO PROVIDE CONSULTANT SERVICES IN THE AMOUNT OF $271,672, FOR THE PROJECT TITLED, "TRAFFIC SIGNAL SYNCHRONIZATION OUTSIDE THE CENTRAL BUSINESS DISTRICT (CBD) FOR FISCAL YEAR 2007," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Modesto has successfully obtained Federal Congestion Mitigation and Air Quality (CMAQ) grants for the "Traffic Signal Synchronization Outside the Central Business District for Fiscal Year 2007," project and

WHEREAS, the project entails providing all services necessary to improve traffic signal coordination for 144 signalized intersections outside the Central Business District of Modesto, and

WHEREAS, a coordinated traffic signal system must be maintained with new baseline data collected every three to four years, and our last major synchronization project for outside the downtown area was done in 2002, and

WHEREAS, in January 2007, City staff sent a Request For Proposals (RFP) to qualified consultants and advertised this project in the Modesto Bee as well as the City of Modesto's Contracts Available website, and

WHEREAS, a Review Board was appointed by the Public Works Director, and

WHEREAS, the Review Board evaluated the proposals, and based on qualifications, board members selected Minagar and Associates, Inc., as the successful competitor,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Minagar and Associates, Inc., to provide

consultant services in the amount of $271,672, for the project titled, "Traffic Signal Synchronization Outside the Central Business District (CBD) for Fiscal year 2007."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-250

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO MAKE A SOLE-SOURCE PURCHASE OF A DIAMOND Z 5000 HORIZONTAL GRINDER DIRECTLY FROM THE MANUFACTURER, INCLUDING A CATERPILLAR ENGINE FIVE-YEAR EXTENDED WARRANTY, FOR CITY OF MODESTO COMPOST FACILITY, FOR A TOTAL COST OF $602,779, AND AUTHORIZING ADJUSTMENTS TO THE FLEET SERVICES AND COMPOST FUND BUDGETS TO REFLECT THE NEGOTIATED PURCHASE PRICE.

WHEREAS, the City of Modesto operates a Compost Facility at 7007 Jennings Road, and

WHEREAS, the operation of the Compost Facility is a critical component of the City's AB 939 plan, which mandates the reduction of disposal and requires the City to divert 50% or more of its waste from disposal, and

WHEREAS, a grinder is an essential piece of equipment in producing compost, and

WHEREAS, the grinder currently used at the Compost Facility has met its life expectancy, is dangerous to operate, cannot process large quantities of mixed paper, and the engine recently failed, and

WHEREAS, on April 4, 2006, by Resolution No. 2006-193, the City Council authorized the Purchasing Manager to issue a Request for Bids (RFB) for the lease/purchase of a horizontal grinder to replace the current tub grinder at the City's Composting Facility that has become unreliable and costly to keep operational, and

WHEREAS, based on the observation of various grinders under field conditions, staff developed bid specifications for the RFB, including: a downward turning mill; feed roller that lifts out 90 degrees and locks in place allowing the employees to work without crouching and eliminating the danger posed by working below the feed roller; and fluid coupler power transfer system, and

WHEREAS, following the issuance of the RFB and the bidders conference, Purchasing and Solid Waste staff determined that only one manufacturer, Diamond Z, could meet these safety/ergonomics and performance specifications in addition to the other bid specifications, including an downturn mill, a feed mill cover that lifts out 90 degrees, and a fluid coupler to reduce shocks to the engine, and

WHEREAS, a vendor formally requested the withdrawal of RFB No. 0607-19 due to these mandatory requirements, and raised concerns regarding the compliance of Diamond Z grinders with Air Board regulations, and

WHEREAS, staff contacted the Air Board and determined that the Diamond Z grinder being considered met the Air Board's requirements for a mobile source, and

WHEREAS, City staff determined that due to technical and safety requirements, the procurement should be sole-source, and

WHEREAS, on December 6, 2006, RFB Addendum No. 1/Notice of Bid Cancellation was sent via email to Peterson Corporation and Pape Machinery, and mailed to all five (5) bidders and posted on the City's web site, and

WHEREAS, the RFB Addendum No. 1/Notice of Bid Cancellation addressed the reasons for cancellation based on staff's discovery of the different types of grinders operating under field conditions, and stated that the downturn mill, removable cover, and fluid coupler will be mandatory for any horizontal grinder purchased, and

WHEREAS, the RFB Addendum No. 1/Notice of Bid Cancellation stated that all bidders shall be notified should the City decide to move forward with the sole-source procurement process, and

WHEREAS, on March 27, 2007, by Resolution No. 2007-192, the City Council authorized the sole-source lease/purchase of a Diamond Z 5000 horizontal grinder, with terms to be negotiated by the Purchasing Division, and

WHEREAS, on March 28, 2007, Peterson Corporation and Pape Machinery were notified via email, of the City's intent to move forward with a sole-source procurement, which was the preliminary step in Councils' approval of the sole-source procurement, with the second step being to request funding from Council on April 24, 2007, and

WHEREAS, the City subsequently received e-mails from several vendors, asserting that they could provide services cheaper, that the machine being procured would not meet Air Board requirements, and could not be transported over the road in California, and

WHEREAS, staff has responded to each of these assertions in detail in the staff report, and providing evidence to counter these assertions, and

WHEREAS, replacement of the existing grinder is critical to compost operations, and

WHEREAS, based on an evaluation by the Finance Director of lease/purchase terms available, it has been determined that an outright purchase of the grinder is the more favorable and expeditious option to pursue, and

WHEREAS, resources are available within the Compost Fund and Fleet Replacement Fund to provide for the purchase of the grinder, and

WHEREAS, the budget of the Fleet Replacement Fund must be amended as shown in **Exhibit A** to this resolution, which is incorporated by reference herein, to increase appropriations in an amount sufficient to allow the purchase of the grinder in the approximate amount of $602,778.00, and

WHEREAS, the budget of the Compost Fund must be amended to reduce appropriations that were originally established to provide for the lease-purchase of the grinder as shown in Exhibit A attached hereto and incorporated herein by reference. and

WHEREAS, the Citizen's Advisory Committee on Recycling has recommended that once the City's Compost Facility has purchased its new horizontal grinder, which will be

capable of processing mixed paper and other organics along with green waste, the City should conduct an aggressive public education campaign to encourage residents to put other organics such as food waste, newsprint, magazines, phone books, junk mail, computer paper, paper napkins and towels, and cardboard in the green waste container for composting,

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that the Council hereby authorizes the Purchasing Manager to make a sole-source purchase of a Diamond Z 5000 horizontal grinder directly from the manufacturer, including a Caterpillar Engine Five-Year Extended Warranty, for City of Modesto Compost Facility, for a total cost of $602,778.

BE IT FURTHER RESOLVED that the Council hereby authorizes an adjustment to the Fleet Services Fund budget, as shown on Exhibit A, attached hereto and incorporated herein by reference to reflect the purchase.

BE IT FURTHER RESOLVED that the Council hereby authorizes an adjustment to the Compost Fund budget, as shown of Exhibit A, attached hereto and incorporated herein by reference, to reflect the purchase.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

Compost Operations Fund – Fund 6290

	Increase (Decrease)
Expense	
6290-355-5222-0451 Principal Retirement	($104,000.00)
6290-355-5222-0452 Interest Expense	($ 24,000.00)
6290-700-7000-7721 Transfer Out	$128,000.00
Reserve	
6290-800-8000-8003 Reserve	($128,000.00)
6290-800-8000-8003 Reserve	$128,000.00

Fleet Equipment Replacement Fund - Fund 6210

Revenue	
7210-700-7000-9629 Transfer-in	$128,000.00
Expense	
7210-480-5814-5328 Grinder Purchase	$602,779.00 (estimate)
Reserve	
7210-800-8000-8003 Reserve	$163,118.00
7210-800-8000-8003 Reserve	($311,661.00) (estimate)

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-251

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO EXTEND THE CURRENT INTERIM GRINDING CONTRACT WITH G & F AGRI SERVICES, INC. THROUGH MAY 30, 2007, IN AN AMOUNT NOT-TO-EXCEED $100,000, FOR CITY OF MODESTO COMPOST FACILITY, AND AMENDING THE COMPOST FACILITY BUDGET TO REFLECT THE INCREASED COST OF THESE SERVICES

WHEREAS, the City of Modesto operates a Compost Facility at 7007 Jennings Road, and

WHEREAS, the operation of the Compost Facility is a critical component of the City's AB 939 plan, which mandates the reduction of disposal and requires the City to divert 50% or more of its waste from disposal, and

WHEREAS, a grinder is an essential piece of equipment in producing compost, and

WHEREAS, in late December, 2006, the tub grinder at the City's Compost Facility experienced complete engine failure, and

WHEREAS, the tub grinder was purchased in 1997 and had been in continuous operation since that time, had met its life expectancy, cannot process paper or other materials that the City will need to compost to continue to meet it's AB 939 mandates, and is in the process of being replaced for these reasons, and

WHEREAS, to meet the State's time limits on stockpiling while the details of the new grinder purchase are being finalized and the grinder can be delivered, staff solicited informal bids for temporary grinding services from private sector grinding companies.

WHEREAS, bids were received from five (5) companies and ranged from $11.50 per ton to $15.50 per ton, and

WHEREAS, a Purchase Order was issued to G & F Agri Services, Inc., in Ripon for grinding up to 4,000 tons during this interim period, and

WHEREAS, the amount processed has almost reached the 4,000 ton processing limit of the Purchase Order, and the dollar amount of the grinding services provided under this Purchase Order is approximately $48,000, and

WHEREAS, staff is recommending that the Purchase Order be extended and increased in order to provide grinding services and avoid permit violations pending the delivery of the new grinder, and

WHEREAS, the funds budgeted in the FY 2006-2007 Compost Facility Budget are presently insufficient to cover the increased cost of the extended grinding contract, and an increase in the Purchase Order would require a transfer from the Compost Fund Reserves and an amendment to the operating budget as shown in **Exhibit A** to this resolution, and

WHEREAS, the Compost Fund Reserves have a sufficient balance to accommodate a transfer for these purposes,

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to extend the current interim grinding contract with G & F Agri Services, Inc. through May 30, 2007, in an amount not-to-exceed $100,000, for City of Modesto Compost Facility.

BE IT FURTHER RESOLVED that the Council hereby authorizes an adjustment to the Compost Fund budget as shown in Exhibit A to reflect the cost of the repair.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

Compost Operations Fund – Fund 6290

Expense		*Increase (Decrease)*
6290-800-8000-8003	Composting Operations Reserve	($100,000)
6290-355-5222-0216	Equipment Rental	$100,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007- 252

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER, IF IT BECOMES NECESSARY DUE TO DELAYS IN THE PURCHASE OF THE NEW GRINDER, TO EXECUTE A PURCHASE ORDER WITH HOLT OF CALIFORNIA FOR THE REPAIR OF THE EXISTING TUB GRINDER IN AN AMOUNT NOT-TO-EXCEED $70,000, AND AUTHORIZING ADJUSTMENTS TO THE COMPOST FACILITY BUDGET TO REFLECT THE ACTUAL COST OF THE REPAIR, SHOULD THIS REPAIR BECOME NECESSARY.

WHEREAS, the City of Modesto operates a Compost Facility at 7007 Jennings Road, and

WHEREAS, the operation of the Compost Facility is a critical component of the City's AB 939 plan, which mandates the reduction of disposal and requires the City to divert 50% or more of its waste from disposal, and

WHEREAS, a grinder is an essential piece of equipment in producing compost, and

WHEREAS, the grinder currently used at the Compost Facility has met its life expectancy, is dangerous to operate, cannot process large quantities of mixed paper, and the engine recently failed, and

WHEREAS, on March 27, 2007, by Resolution No. 2007-192, the City Council authorized the sole-source lease/purchase of a Diamond Z 5000 horizontal grinder, with terms to be negotiated by the Purchasing Division, and

WHEREAS, based on an evaluation by the Finance Director of lease/purchase terms available, it has been determined that an outright purchase of the grinder is the more favorable and expeditious option to pursue, and

WHEREAS, the Purchasing Division is currently negotiating the purchase of a new grinder with the vendor, and

WHEREAS, although the City has used a contract grinding service to grind materials while working on the purchase of a new grinder, these contract services are costing $11.50 per ton, which is significantly higher than the City's cost to grind which is $7.05 per ton, and

WHEREAS, as a contingency, in the event that the purchase of the new grinder encounters delays and the delivery of a new grinder is delayed for three (3) to six (6) months, necessitating the repair of the existing grinder to provide a more cost-effective means of processing materials than continuing to contract for this service, staff has requested quotes for the emergency repair of the existing tub grinder from four (4) companies, and

WHEREAS, staff has received one responsive quote, which was from Holt of California, a licensed Caterpillar engine repair shop, in the amount of $58,763 plus tax, and

WHEREAS, if necessary, the emergency repair of the tub grinder is expected to total approximately $64,000, exceeding the authorization authority of the City Manager, and

WHEREAS, once repaired, the resale value of the of the tub grinder is anticipated, although not guaranteed, to exceed the amount of the repair, based on current prices for used tub grinders, and

WHEREAS, if the repair is necessary due to delays in the procurement of the new grinder, resources are available within the Compost Fund Reserves for the repair of the grinder, and

WHEREAS, if the repair becomes necessary, the budget of the Compost Fund must be amended to increase the appropriations that were originally established for equipment repair as shown in Exhibit A to this resolution,

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that the Council hereby authorizes the Purchasing Manager, if it becomes necessary due to delays in the purchase of the new grinder, to execute a Purchase Order with Holt of California for the repair of

the existing tub grinder in an amount not to exceed $70,000, for City of Modesto Compost Facility.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Compost Facility budget to reflect the increased cost of these services, as shown in **Exhibit A,** attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

Compost Operations Fund – Fund 6290

Expense		*Increase (Decrease)*
6290-800-8000-8003	Composting Operations Reserve	($70,000)
6290-355-5222-0223	R & M Outside	$70,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-253

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(579) (DALE ROAD BUSINESS PARK, LLC)

WHEREAS, a verified application for an amendment to Section 12-3-8 of the Zoning Map was filed by Dale Road Business Park, LLC on October 25, 2006, to reclassify from Professional Office Zone, P-O, to Planned Development Zone, P-D(579), to allow the conversion of existing professional offices to four-two unit commercial condominiums, creating eight air space condominium units, property located on the east side of Dale Road north of Veneman Avenue, described as follows,

P-O to P-D(579)

All that certain property situate in the northwest quarter of Section 12, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, and lying in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Parcel 3 as shown on that certain Parcel Map filed September 25, 1986 in Volume 38 of Parcel Maps, at Page 77, Stanislaus County Records;

also including the easterly half of Dale Road immediately adjacent to the above described property.

WHEREAS, a public hearing held by the Planning Commission on March 5, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-09, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezoning will not result in any additional development beyond what has previously been approved for the site.

2. The proposed project is compatible with existing and potential surrounding development, because it consists of single-story offices that orient to Dale Road, a Principal Arterial street.

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 24, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Dale Road Business Park, LLC for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-09 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3440-C.S. on the 24th day of April, 2007 reclassifying the above-described property from Professional Office Zone, P-O, to Planned Development Zone, P-D(579).

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development, P-D(579), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan titled "Dale Road Business Park Plot Plan" as amended in red, stamped approved by the City Council.
2. No operations conducted on the premises shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration, or electrical interference detectable off the premises. All machinery or equipment shall be soundproofed as required by the Chief Building Official.
3. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.
4. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, as required by the City Engineer or designee shall be dedicated along all street frontages.

5. Local Stormwater Pollution Prevention Plan (SWPPP) for project must be submitted to Development Services-Stormwater prior to the issuance of a Building Permit. Local SWPPP to include soil stabilization measures, sediment controls; drain inlet protection in public right-of-way, stabilized construction entrance, and concrete wash out area. The project shall comply with the Guidance Manual for New Development Storm Water Quality Control Measures and the City of Modesto Standard Specifications.

6. Prior to sale of the condominium units, a final subdivision map shall be recorded.

7. Prior to recordation of a final subdivision map, the developer shall obtain certification from the Chief Building Official that all construction conforms to all building and fire safety standards for condominiums established by the Chief Building Official.

8. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee. The enclosure shall be sized to adequately accommodate recyclable materials. The trash enclosure for this project shall be altered to meet current City Stormwater Standards:

   a. Berm to prevent stormwater run-on.

   b. Grade to drain to adjacent landscape area.

9. All conditions of Board of Zoning Adjustment Resolution No. 2005-11 not in conflict with this action shall remain in full force and effect.

10. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors, and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(579):

The entire construction program to be accomplished in one phase, construction to begin on or before April 24, 2009 and completion to be not later than April 24, 2010.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(579), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By Patrick Kelly
Community & Economic Development Department
Planning Division

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-254

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 12-3-8 OF THE ZONING MAP TO REZONE FROM PROFESSIONAL OFFICE ZONE, P-O, TO PLANNED DEVELOPMENT ZONE, P-D(579), PROPERTY LOCATED AT 3600 DALE ROAD. (DALE ROAD BUSINESS PARK, LLC)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Morris Engineering and Surveying, Inc. has proposed that the zoning designation for the property located on the east side of Dale Road north of the Veneman Road, be amended to rezone from Professional Office Zone, (P-O), to Planned Development Zone, P-D(579), to allow for the approved office buildings to be converted to four-two unit-commercial condominiums subsequently creating eight air space condominium units, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent project for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community and Economic Development Department by Environmental Assessment Initial Study EA/C&ED No. 2007-12 ("Initial Study") reviewed the proposed amendment to the Zoning Map and Planned Development project

to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no or new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines on February 8, 2007, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, the Planning Commission, by Resolution No. 2007-09 recommended to the City Council approval of the application of Morris Engineering to amend section 12-3-8 of the zoning map to rezone from Professional Office Zone, (P-O), to Planned Development Zone, P-D(579), for the property located on the east side of Dale Road north of Veneman Avenue, to allow the future development of four approved office buildings to be converted to four-two unit-commercial condominiums subsequently creating eight air space condominium units.and associated parking as set forth in said Resolution No. 2007-09, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing, which was held on April 24, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezone to Planned Development Zone P-D(579) for commercial condominiums, a copy of

which is attached hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The type of project is described in Chapter II of the Master EIR (SCH No. 1999082041).

2. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

4. Based on the Initial Study, the City of Modesto finds and determines:

    a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.

    b. No new or additional mitigation measures or alternatives are required.

    c. The project is within the scope of the MEIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2007-12

For the proposed:

PDZ – Planned Development Zone
3600 Dale Road – Dale Road Business Park, LLC

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

February 23, 2007

City of Modesto

Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: P-PDZ-06-006 – Dale Road Business Park

B. Address or Location: 3600 Dale Road

C. Applicant: Dale Road Business Park, LLC, 433 Airport Blvd., Ste. 224, Burlingame, CA 94010

D. City Contact Person: Rita S. Doscher

Project Manager:	Rita S. Doscher
Department:	Community and Economic Development Department
Phone Number:	(209) 577-5267
E-mail address:	rdoscher@modestogov.com

E. Current General Plan Designation(s): "C" Commercial

F. Current Zoning Classification(s): "P-O" Professional Office Zone

G. Surrounding Land Uses:

North:	Professional Offices
South:	P-D (195) Professional Offices Uses
East:	(R-1) Single-Family Residential
West:	P-D (109) Commercial Retail

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

This is an application to rezone the above reference property from P-O (Professional-Office) to P-D (Planned Development Zone) to allow the approved office buildings to be converted to four-two unit commercial condominiums subsequently, creating eight air space condominium units. The proposed development will consist of four two-unit single story buildings: 4 units will have a total of 2424 sq. ft. each; 2 units will have a total of 2257 sq. ft. each; and the remaining 2 units will have a total of 2258 sq. ft. each. The overall square footage for all four buildings is 18,726 sq. ft. In addition, the approved development is providing on site parking, landscaping, and street improvements. The current development fronts onto Dale Road and access into the site is provided by way of a 30-foot wide on-site access driveway. The parking areas are located throughout the development and will provide a total of 102 spaces exceeding the minimum requirement of 93 parking spaces.

I. Other Public Agencies Whose Approval is Required:

None.

IIII. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ____ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.____ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Rita S. Dodd

Project Manager

Assistant Planner
Title

February 23, 2007
Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X ☐

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X ☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

This is an application to rezone the project site from P-O (Professional Office Zone) to P-D (Planned Development Zone) in order to allow the approved office buildings to be converted to four-two unit commercial condominiums subsequently, creating eight air space condominium units. The rezoning of the office complex is compatible with the existing surrounding mix use of residential development and professional office complexes located along this area of Dale Road. Because the project is consistent with the surrounding mix use of professional office and residential developments, the use and activities will not change to a level that will cause a change to the existing road capacities or levels of service.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project.*

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	YES	NO
(1) The project would contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.	☐	X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

		YES	NO
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and have the following comments:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards. The previously approved site plan was designed to accommodate commercial uses and emergency access.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. The parking area will be located throughout the project site and will provide a total of 102 spaces exceeding the minimum requirement of 93 parking spaces. The design and layout of the proposed parking area will comply with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies have been applied to the previously approved project site. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a rezone to P-D to allow the conversion of existing offices to condominiums. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X

(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? ☐ X

(4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. ☐ X

DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project site and the surrounding property are located within a fully developed urbanized area.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measure applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed. ☐ X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measure applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and while the sewer treatment capacity referred to in #2 above is not at question, they are requesting a fair share contribution from new development in the area to replace the existing trunk with a new larger pipeline. The developers have been advised that they will need to contribute their fair share, $1,779.00, toward the new trunkline.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR. The project does not involve physical development and as a result no measures will be incorporated into or made conditions of approval of this project.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant.*

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. *This cumulative impact is considered significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. The site is fully developed and this new proposal will only involve an amendment to the Planned development zone with no physical canges to the property. No measures will be incorporated into or made conditions of approval of this project.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems

designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into or made conditions of approval of the previously approved development. This project will not involve any modification to the existing site that would require additional measures applied to the new proposal.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measure applicable to this project. It is not on or adjacent to any park sites, nor is it near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan C for Commercial in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity; it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan C for Commercial designation in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial designation in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is infill development that will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan C for Commercial designation in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings. This is an existing site, which had received previous City approval.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The existing site conforms to current City regulations regarding night glare to surrounding residences. These requirements shall remain in effect.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the

project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover

2. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

3. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

4. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. *(the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)*

5. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

Noise Measures:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

   The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

   A. A hammer, or any other device or implement used to pound or strike an object.

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.

D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

1. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall

include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K

Storm Drainage Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-255

A RESOLUTION ADOPTING THE 2005 URBAN WATER MANAGEMENT PLAN

WHEREAS, the California Water Code requires that all urban water suppliers providing water for municipal purposes, either directly or indirectly to more that 3,000 customers, or supplying more that 3,000 acre-feet of water annually, must prepare an urban water management plan and update it at least every five years, and

WHEREAS, the City of Modesto, pursuant to the Water Code, filed Urban Water Management Plans in 1985, 1990, 1995, and 2000 and City staff is recommending adopting the 2005 Urban Water Management Plan in accordance with Section 10642 of the California Water Code, which proposed action will fulfill the 2005 reporting date, and

WHEREAS, City staff held a public workshop to obtain public input on April 24, 2007, and

WHEREAS, as required by Section 6066 of the Government Code, the plan was made available for public review, and notice of a public hearing to be held by the Council of the City of Modesto on April 24, 2007, was published in *The Modesto Bee* for six weeks prior to said public hearing,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the 2005 Urban Water Management Plan in accordance with Section 10642 of the California Water Code. A copy of said plan is on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Hawn , who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-256

Print

A RESOLUTION AUTHORIZING CITY STAFF TO APPLY FOR VARIOUS WATER RELATED GRANTS, THROUGH THE 2007/08 AND 2008/09 FISCAL YEARS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE APPLICATIONS RELATED TO SUCH GRANTS ON BEHALF OF THE CITY

WHEREAS, concurrent with this resolution, the Council adopted Resolution No. 2007-255, which adopted the City of Modesto's Urban Water Management Plan (UWMP), which serves as a foundation document supporting future local and regional planning activities, and

WHEREAS, on June 28, 2005, by Resolution No. 2005-340, the City Council adopted the Integrated Regional Groundwater Management Plan (IRGMP), which identified integrated, regional groundwater related studies, and

WHEREAS, both the UWMP and the IRGMP identified multiple water-related studies that are eligible for state grant funding, and

WHEREAS, having an adopted UWMP ensures eligibility for various grants administered by the Department of Water Resources, from Proposition 50 and Proposition 84, and preference will be given to grant proposals that include integrated projects with multiple benefits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes City Staff to apply for various water related grants.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized and directed to execute the necessary applications for such grants.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007- 257

A RESOLUTION APPROVING A WATER SUPPLY ASSESSMENT FOR THE PROPOSED PLASTIPAK, INC., WATER BOTTLING PROJECT (PROJECT). IT HAS BEEN DETERMINED THAT AN ASSURED, LONG-RANGE WATER SUPPLY FOR THE PROJECT CAN BE MADE ON THE CONDITIONS THAT: (1) THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE 2 EXPANSION PROJECT BECOMES OPERATIONAL, (2) SPECIFIC WATER MANAGEMENT MEASURES ARE IMPLEMENTED, (3) CERTAIN WATER SYSTEM IMPROVEMENTS ARE CONSTRUCTED, AND (4) FUTURE WATER SUPPLIES ARE SECURED - ALL PRIOR TO IMPLEMENTING BUILD-OUT DEVELOPMENT PLANS OF THE PROJECT

WHEREAS, Senate Bill 610 (SB 610) requires water suppliers to conduct a Water Supply Assessment (WSA) for projects meeting the legislative criteria to determine if a sufficient water supply is available to meet the demands of the proposed project, and requires the governing legislative body to approve and adopt such assessments, and

WHEREAS the proposed Plastipak Project (Project), located at 4324 Leckron Road, is within the City of Modesto's water service area and it meets the criteria of requiring a WSA under SB 610 and SB 221, and

WHEREAS, Public Works staff completed a WSA for the Project, and has determined that an assured 20-year water supply for the build-out of the Project can be made on the conditions that conjunctive use water management measures are implemented as identified in the Urban Water Management Plan (UWMP) and the WSA, the Modesto Regional Water Treatment Plant (MRWTP) Phase 2 Expansion becomes operational, specific water management measures are implemented, certain water system improvements are construction and future water supplies are secured,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment dated April 24, 2007, for the proposed Plastipak Project is hereby approved and adopted, a copy of which is on file with the City Clerk.

BE IT FURTHER RESOLVED that pursuant to the California Water Code Section 10912, the Council hereby finds and determines that an assured water supply is available to meet the demands of the proposed Plastipak Project on conditions that (1) the Modesto Regional Water Treatment Plant Phase 2 Expansion project becomes operational, (2) specific water management measures are implemented, (3) certain water system improvements are constructed, and (4) future water supplies are secured - all prior to implementing build-out development plans of the Project, and that the WSA for the proposed Plastipak Project provides substantial evidence to support this determination.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

Resolution No. 2007-258

RESOLUTION OF INTENTION

TO APPROVE AN AMENDMENT TO CONTRACT

BETWEEN THE

BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

AND THE

CITY COUNCIL
CITY OF MODESTO

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service) for local fire members.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: _____
Presiding Officer - Jim Ridenour

Mayor
Title

April 24, 2007
Date adopted and approved

(Amendment)
CON-302 (Rev. 4/96)

[This page is attached by City to the Resolution of Intention provided by CalPERS]

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:

Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____

SUSANA ALCALA WOOD, City Attorney

CalPERS

EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Modesto

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective August 1, 1946, and witnessed July 27, 1946, and as amended effective December 1, 1950, July 1, 1956, July 1, 1959, November 1, 1959, January 1, 1960, October 1, 1962, January 1, 1969, May 1, 1973, May 1, 1974, June 24, 1975, March 28, 1978, July 4, 1978, November 1, 1980, October 20, 1981, June 29, 1982, October 15, 1985, June 24, 1986, April 14, 1987, November 22, 1991, July 25, 1997, November 7, 2000, June 19, 2001 and July 2, 2002 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective July 2, 2002, and hereby replaced by the following paragraphs numbered 1 through 13 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

2. Public Agency shall participate in the Public Employees' Retirement System from and after August 1, 1946 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

   a. Local Fire Fighters (herein referred to as local safety members);

   b. Local Police Officers (herein referred to as local safety members);

   c. Employees other than local safety members (herein referred to as local miscellaneous members).

4. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

   a. POLICE COURT EMPLOYEES; AND

   b. ALL HOURLY RATED OR HOURLY BASIS EMPLOYEES HIRED ON AND AFTER OCTOBER 1, 1962.

5. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.

6. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, and prior to June 30, 1978, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

PLEASE DO NOT SIGN "EXHIBIT A"

7. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).

8. Public Agency elected and elects to be subject to the following optional provisions:

   a. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.

   b. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.

   c. Section 21319 (One-Time 15% Increase for Local Miscellaneous Members Who Retired or Died Prior to July 1, 1971). Legislation repealed said Section effective January 1, 2002.

   d. Section 21572 (Increased Level of 1959 Survivor Benefits) for local miscellaneous members only.

   e. Section 20042 (One-Year Final Compensation).

   f. Section 21427 (Improved Nonindustrial Disability Allowance) for local miscellaneous members only.

   g. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local safety members and those local miscellaneous members entering membership on or prior to October 20, 1981.

   h. Section 21325 (One-Time 3% to 15% Increase For Local Miscellaenous Members and Local Safety Members Who Retired or Died Prior to January 1, 1974). Legislation repealed said Section effective January 1, 2002.

   i. Section 20475 (Different Level of Benefits). Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) are not applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after October 20, 1981.

   j. Section 21322 (One-Time 4% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to January 1, 1981). Legislation repealed said Section effective January 1, 2002.

PLEASE DO NOT SIGN "EXHIBIT"

k. Section 21317 (One-Time 15% Increase for Certain Local Safety Members Who Retired for Service Retirement). Legislation repealed said Section effective January 1, 2002.

l. Section 21024 (Military Service Credit as Public Service).

m. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local safety members only.

n. Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service).

9. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on March 28, 1978. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.

10. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.

11. Public Agency shall also contribute to said Retirement System as follows:

a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574.5 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.

b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

12. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

13. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY_____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MODESTO

BY_____
PRESIDING OFFICER

_____
Witness Date

Attest:

_____
Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-259

A RESOLUTION APPROVING A PROFESSIONAL SERVICES CONTRACT WITH MANAGEMENT PARTNERS, INC. FOR FACILITATION OF A ONE-DAY WORKSHOP AND ADDITIONAL CONSULTATIVE SERVICES IN AN AMOUNT NOT TO EXCEED $24,900 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, on July 11, 2006, the City Council approved a contract with Management Partners, Inc. to conduct an Organizational Health Assessment, and

WHEREAS, an objective coming out of the Organizational Health Assessment was to conduct a workshop with the City Council to establish goals for the next one to three years, and

WHEREAS, Management Partners, Inc. is uniquely able to provide this service given their recent completion of the Organizational Health Assessment and has provided the City with a cost proposal of $24,900 which will also include additional consultative services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a professional services contract with Management Partners, Inc. for facilitation of a one-day workshop and additional consultative services in an amount not to exceed $24,900.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute said contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA-WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-260

A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING BUDGET TO APPROPRIATE $24,900 FROM THE GENERAL FUND RESERVE 0100-800-8000-8003 TO PROFESSIONAL SERVICES ACCOUNT 0100-020-0201-0235 TO FULLY FUND THE PROFESSIONAL SERVICES CONTRACT WITH MANAGEMENT PARTNERS, INC.

WHEREAS, on May 1, 2007, by Resolution No. 2007-260, the City Council approved a contract with Management Partners, Inc., for facilitation of a one-day workshop with City Council, Charter Officers, Senior Executive Team, and additional consultative services in an amount not to exceed $24,900, and

WHEREAS, transfer of funds from the General Fund Reserves is necessary to fully fund the contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the fiscal year 2006-07 Operating Budget is hereby amended to appropriate $24,900 from 0100-800-8000-8003 General Fund Reserve to the 0100-020-0201-0235, Professional Services account in the City Manager's Office.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-261

A RESOLUTION SUPPORTING A PROPOSAL FROM THE COMMUNITY QUALITIES FORUM TO CALL FOR AN EDUCATIONAL CONFERENCE AND PROVIDE A LOCATION FOR THE CONFERENCE.

WHEREAS, the Community Qualities Forum members believe that people who attend California State University, Stanislaus and Modesto Junior College want to stay in this area, and

WHEREAS. due to the significant number of jobs coming into Modesto and an undereducated population, the Community Qualities Forum is requesting that the City of Modesto put together a conference that will link the efforts of various public agencies in preparing our youth academically for employment in positions in these companies, and

WHEREAS, the conference would discuss what the groups are doing, how they are doing it, what improvements they can make in their approaches, and how they can effectively work together to address the problem, and

WHEREAS, this conference would lead to a better understanding of a major problem facing Modesto and lead to these disparate groups working together to address the issue of an undereducated workforce, and

WHEREAS, the Community Qualities Forum recommends inviting to the conference representatives of the following local groups that are independently dealing with the subject of undereducated local youth to promote working together to foster increased education among the undereducated in the Modesto area: Hispanic Leadership Council; Airport Neighbors United; Hispanic Chamber of Commerce; Parents Institute;

Alliance; Central Valley Center; California State University, Stanislaus; Modesto Junior College; and, Modesto City Schools, and

WHEREAS, for the purpose of working together to investigate educational levels of the local work force, the Community Qualities Forum proposes that the City of Modesto call for an educational conference and provide a location for the conference, and

WHEREAS, the Safety and Communities Committee met on February 5, 2007, and supported the recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby supports a proposal from the Community Qualities Forum for the City of Modesto to call for an educational conference and provide a location for the conference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-262

A RESOLUTION APPROVING A REQUEST FROM THE HISPANIC CHAMBER OF COMMERCE FOR USE OF AMPLIFIED MUSIC AT MANCINI BOWL FOR A CINCO DE MAYO EVENT, TO BE HELD ON MAY 6, 2007, FROM 11:00 A.M. TO 6:00 P.M.

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a request from the Hispanic Chamber of Commerce, requesting use of amplified music at Mancini Bowl for a Cinco de Mayo event, to be held on May 6, 2007, from 11:00 a.m. to 6:00 p.m., and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from the Hispanic Chamber of Commerce, requesting use of amplified music at Mancini Bowl for a Cinco de Mayo event, to be held on May 6, 2007, from 11:00 a.m. to 6:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-263

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO.

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

Exhibits Coordinator

The job specification for this classification is being created to design, coordinate, and install exhibits at the McHenry Mansion and McHenry Museum. The job specification for the classification of Exhibits Coordinator, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after May 1, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
No. 6819

May 2007

EXHIBITS COORDINATOR

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

Under general supervision, to design, coordinate, install and maintain exhibits at the McHenry Museum and McHenry Mansion.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Cultural Services Manager.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Plan, design, and install both temporary and permanent exhibits at the museum and mansion.

Coordinate the installation of objects lent by individuals or institutions.

Schedule temporary exhibits, including coordinating delivery, to ensure exhibits are displayed in a timely manner.

Prepare signs and labels as required; cut and assemble matting for prints, drawings, and photographs; create graphics.

Perform maintenance duties to keep exhibits and displays clean, properly labeled and presentable for display.

Maintain close contact with traveling exhibit sources regarding the coordination of exhibits.

Perform minor repairs to artifacts.

Paint, patch and repair walls where exhibits are hung.

Maintain condition reports when traveling exhibits are brought in. Track expenditures and provide input for exhibit needs.

Marginal Functions:

Perform other related duties as assigned.

QUALIFICATIONS:

Knowledge of:

Principles, techniques, equipment and supplies used in developing museum exhibits.

Historic house displays used in museum.

Matting and framing techniques.

Museum purposes, organization and procedures.

Packing and storage techniques for art or history objects.

Personal computers including related graphics and software.

Recreational, social and cultural needs of the community.

Ability to:

Design and install attractive exhibits and displays.

Communicate in a clear and concise manner both verbally and in writing.

Create illustrative materials.

Handle delicate and valuable works of art or historical artifacts with extreme care.

Use a variety of equipment used in the creation of displays including hand and power tools.

Think clearly, quickly and accurately in emergencies.

Identify and analyze potential problems, situations and needs; carry out solutions.

Establish and maintain cooperative working relationships with those contacted in the course of work.

Ability to: (Continued)

Design and prepare a variety of written information materials including brochures and invitations.

Perform minimal manual labor including lifting and carrying up to 25 lbs.

Monitor exhibits to ensure compliance with related regulations, policies and procedures.

Experience and Training Guidelines:

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Working in a history museum, historic house museum, or art gallery designing art of historical exhibits.

Training:

Equivalent to an Associate of Arts degree with an emphasis in graphic design, fine arts, and museum studies or a related field.

License or Certificates:

Possession of or the ability to obtain a valid Class C California Drivers License.

WORKING CONDITIONS:

Environmental Conditions:

Office and facility environment; may travel from site to site.

Physical Conditions:

Essential and marginal functions may require maintaining physical conditions necessary for sitting, walking, standing, bending, lifting and using ladders and other equipment to install exhibits for prolonged periods of time; operation of a personal computer and other related office equipment.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-264

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-319 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES TO ESTABLISH THE SALARY RANGE FOR EXHIBITS COORDINATOR AT SALARY RANGE 107.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-319, which approved the Class Range Table for General Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2006-319. Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective May 23, 2006," attached to Resolution No. 2006-319, is hereby amended as shown on the amended Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective May 1, 2007," which is **attached hereto** and made a part hereof as though set forth in full herein. Said amended Exhibit "A" establishes the salary range for Exhibits Coordinator at range 107.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after May 1, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective **May 1, 2007**

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II **Exhibits Coordinator** Police Clerk I
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II Police Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Animal Control Officer I Electrical Technician I Equipment Service Technician Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

RANGE	TITLE
115	Accounting Technician Administrative Services Technician I Code Enforcement Officer I Community Service Officer I Customer Services Account Clerk III Senior Administrative Office Assistant Wastewater Treatment Plant Attendant
116	Equipment Operator Fire Prevention Technician I Motor Sweeper Operator Traffic Operations Technician Used Oil Coordinator Wastewater Collection System Operator Water Distribution System Operator
117	Electrical Technician II
118	Customer Services Accounting Technician Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer
119	Administrative Services Technician II Animal Control Officer II Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer II Community Service Officer II Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Public Information Technician Wastewater Treatment Plant Operator

RANGE	TITLE
120	Accountant I Assistant Electrician Equipment Mechanic Fire Prevention Technician II Laboratory Analyst I Senior Equipment Operator Traffic Painter Crewleader Water Resource Specialist I Welder/Fabricator
121	Wastewater Treatment Plant Relief Operator
122	Heavy Equipment Mechanic Cross Connection Specialist Fire Equipment Mechanic Law Enforcement Academy Recruit Tree Trimmer Crewleader Water Conservation Specialist
123	Airport Maintenance Crewleader Civil Engineering Technician II Identification Technician I Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I Environmental Compliance Inspector I Equipment Mechanic Crewleader Laboratory Analyst II Operation and Maintenance Crewleader Planning Assistant Plant Mechanic Water Resource Specialist II
125	Crime Analyst
126	Building Inspector I Heavy Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I

RANGE	TITLE
127	Civil Engineering Assistant Identification Technician II Senior Fire Equipment Mechanic
128	Community Development Program Specialist II Electrician Environmental Compliance Inspector II Instrument Repair Technician Senior Wastewater Treatment Plant Operator
129	
130	Building Inspector II Construction Inspector Housing Rehabilitation Specialist II Laboratory Analyst III Project Coordinator
131	Senior Civil Engineering Assistant
132	Environmental Review Specialist Senior Environmental Compliance Inspector
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-265

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH RMC WATER AND ENVIRONMENT, INC., IN THE NOT-TO-EXCEED AMOUNT OF $447,250.00, FOR PROGRAM MANAGEMENT SERVICES OF THE PHASES 1A AND 1B TERTIARY WASTEWATER TREATMENT FACILITY PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on February 13, 2007, by Resolution No. 2007-110, City Council approved an Agreement with Carollo Engineers to prepare a 35% project design and a Preliminary Design Report (PDR) for Phases 1A and 1B Tertiary Wastewater Treatment Facility (Project) in an amount not to exceed $1,113,700, and

WHEREAS, due to the current staffing levels a program management company is being tasked with the program management of the Project, and

WHEREAS, the selection process for program management services followed the City's selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed approximately 80 Request for Qualifications for program management services, and

WHEREAS, two specialized consulting firms of program management services responded and were asked to provide a proposal, and

WHEREAS, the City's Selection Committee reviewed the proposals submitted and held interviews with the two firms, and

WHEREAS, the firm of RMC Water and Environment was considered to be the most qualified to provide program management services for the Project, and

WHEREAS, Capital Improvement Services staff recommends that an Agreement with the consulting firm of RMC Water and Environment, Inc., be approved to perform the program management services as current workload levels do not provide for timely

in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with RMC Water and Environment, Inc., in an amount not-to-exceed $447,250 to perform program management services of the Phases 1A and 1B Tertiary Wastewater Treatment Facility project, and

WHEREAS, RMC Water and Environment, Inc., will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Program Management Services with RMC Water and Environment, Inc., in an amount not-to-exceed $447,250, for program management services of the Phases 1A and 1B Tertiary Wastewater Treatment Facility project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-266

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH RMC WATER AND ENVIRONMENT, INC., IN THE NOT-TO-EXCEED AMOUNT OF $113,520.00, FOR PROGRAM MANAGEMENT SERVICES OF THE EMERALD TRUNK REHABILITATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City is in the process of selecting a Design Consultant to prepare a 35% project design and a Preliminary Design Report (PDR) of the Emerald Trunk Rehabilitation Project (Project) which is scheduled to be before Council for approval in May 2007, and

WHEREAS, due to the current staffing levels, a program management company is being tasked with the program management of the Project, and

WHEREAS, the selection process for program management services followed the City's selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed approximately 80 Request for Qualifications for program management services, and

WHEREAS, two specialized consulting firms of program management services responded and were asked to provide a proposal, and

WHEREAS, the City's Selection Committee reviewed the proposals submitted and held interviews with the two firms, and

WHEREAS, the firm of RMC Water and Environment was considered to be the most qualified to provide program management services for the Project, and

WHEREAS, Capital Improvement Services staff recommends that an Agreement with the consulting firm of RMC Water and Environment, Inc., be approved to perform the program management services as current workload levels do not provide for timely

in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with RMC Water and Environment, Inc., in an amount not-to-exceed $113,520 to perform program management services of the Emerald Trunk Rehabilitation project, and

WHEREAS, RMC Water and Environment, Inc., will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Program Management Services with RMC Water and Environment, Inc., in an amount not-to-exceed $113,520, for program management services of the Emerald Trunk Rehabilitation project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-267

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH RMC WATER AND ENVIRONMENT, INC., IN THE NOT-TO-EXCEED AMOUNT OF $124,380.00, FOR PROGRAM MANAGEMENT SERVICES OF THE PARALLEL OUTFALL REHABILITATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City is in the process of selecting a Design Consultant to prepare a 35% project design and a Preliminary Design Report (PDR) of the Parallel Outfall Rehabilitation Project (Project) which is scheduled to be before Council for approval in May 2007, and

WHEREAS, due to the current staffing levels, a program management company is being tasked with the program management of the Project, and

WHEREAS, the selection process for program management services followed the City's selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed approximately 80 Request for Qualifications for program management services, and

WHEREAS, two specialized consulting firms of program management services responded and were asked to provide a proposal, and

WHEREAS, the City's Selection Committee reviewed the proposals submitted and held interviews with the two firms, and

WHEREAS, the firm of RMC Water and Environment, Inc., was considered to be the most qualified to provide program management services for the Project, and

WHEREAS, Capital Improvement Services staff recommends that an Agreement with the consulting firm of RMC Water and Environment, Inc., be approved to perform the program management services as current workload levels do not provide for timely

in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with RMC Water and Environment, Inc., in an amount not-to-exceed $124,380 to perform program management services of the Parallel Outfall Rehabilitation project, and

WHEREAS, RMC Water and Environment, Inc., will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Program Management Services with RMC Water and Environment, Inc., in an amount not-to-exceed $124,380, for program management services of the Parallel Outfall Rehabilitation project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007- 268

A RESOLUTION APPROVING A WATER SUPPLY ASSESSMENT, PREPARED BY WEST-YOST & ASSOCIATES, FOR THE KIERNAN BUSINESS PARK 'EAST' AND KIERNAN BUSINESS PARK 'SOUTH' PROJECTS (PROJECTS). IT HAS BEEN DETERMINED THAT AN ASSURED, LONG-RANGE WATER SUPPLY FOR THE PROJECTS CAN BE MADE ON THE CONDITIONS THAT: (1) THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE 2 EXPANSION PROJECT BECOMES OPERATIONAL, (2) SPECIFIC WATER MANAGEMENT MEASURES ARE IMPLEMENTED, AND (3) CERTAIN WATER SYSTEM IMPROVEMENTS ARE CONSTRUCTED - ALL PRIOR TO ACTUAL DEVELOPMENT OF THE PROJECTS

WHEREAS, Senate Bill 610 (SB 610) requires water suppliers to conduct Water Supply Assessment (WSA) studies for projects meeting the legislative criteria to determine if a sufficient water supply is available to meet the demands of the proposed Projects, and requires the governing legislative body to approve and adopt such assessments, and

WHEREAS the proposed Projects, located within the Kiernan – Carver Comprehensive Planning District (CPD) bordered by Pelandale Avenue on the south, Dale Road on the west, American Avenue on the east, and Kieran Avenue/SR 219 to the north, is within the City of Modesto's water service area and it meets the criteria of requiring a WSA under SB 610 and SB 221, and

WHEREAS, West Yost Associates has completed a WSA for the Projects, and Public Works staff has determined that an assured 20-year water supply for the build-out of the Projects can be made on the conditions that conjunctive use water management measures are implemented as identified in the Urban Water Management Plan and the WSA, the Modesto Regional Water Treatment Plant Phase 2 Expansion is constructed and future water supplies are secured,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment dated April 2007, for the proposed Kiernan Business Park 'East' and Kiernan Business Park 'South' projects is hereby approved and adopted, a copy of which is on file with the City Clerk.

BE IT FURTHER RESOLVED that pursuant to the California Water Code Section 10912, the Council hereby finds and determines that an assured water supply is available to meet the demands of the proposed Kiernan Business Park 'East' and Kiernan Business Park 'South' projects and that the WSA for the proposed Kiernan Business Park 'East' and Kiernan Business Park 'South' projects provides substantial evidence to support this determination.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-269

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH ECONOMIC AND PLANNING SYSTEMS, INC. FOR THE FIVE YEAR UPDATE OF THE CAPITAL FACILITIES FEES PROGRAM IN AN AMOUNT NOT TO EXCEED $60,000, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, the City Council of the City of Modesto adopted Modesto Municipal Code 8-1.904 et seq. creating and establishing the authority for imposing and charging Capital Facilities Fees ("CFF"), and

WHEREAS, pursuant to the Capital Facilities Fees Policies and Procedures, the City is required to update its CFF Program every five years, and

WHEREAS, the City last adopted a comprehensive update of the CFF program on June 24, 2003, and

WHEREAS, a Request for Proposals for the five year update of the CFF program was issued and six proposals were received, and

WHEREAS, staff from the City Manager's Office, Fire, Public Works, and Parks Recreation and Neighborhoods Departments, interviewed four firms, and

WHEREAS, Economic and Planning Systems, Inc. ("Consultant") was selected to prepare the five year update of the CFF Program, and,

WHEREAS, Consultant represents that it is qualified, willing and able to provide said services and prepare such document(s), and

WHEREAS, City staff desires to enter into a Standard Agreement for Consultant Services ("Agreement") with Economic and Planning Services Inc. for the five year update to its CFF program to

1) ensure all facilities within the CFF Program are appropriate for build out within the City's Sphere of Influence,
2) review cost estimates to ensure adequate fees are collected from new development to pay for new development impact on the identified facilities,
3) determine and address any deficiencies within the CFF Program since the last update, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Standard Agreement for Consultant Services between the City of Modesto and Economic and Planning Services, Inc. in an amount not to exceed $60,000 for the Five Year Update of the City's Capital Facilities Fee Program.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-270

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO OF INTENTION TO ESTABLISH CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-1 (NORTH BEYER PARK #2) AND AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN

WHEREAS, an owner of not less than 10 percent of the area of land proposed to be included within the community facilities district herein described has filed with the City Clerk of this City (the "City") a petition requesting that this Council (the "Council") form a community facilities district pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act") in order to: (i) finance certain public facilities having a useful life of 5 years or longer (the "Facilities"), including expenses incidental thereto; and (ii) finance certain services (the "Services") more particularly described in **Exhibit B**; and

WHEREAS, upon receipt of the petition, this Council is, pursuant to Section 53320 of the California Government Code, required to adopt a resolution of intention to establish the community facilities district; and

WHEREAS, this Council has adopted local goals and policies concerning the use of the Act;

NOW, THEREFORE, BE IT RESOLVED, ORDERED, AND FOUND by the City Council of the City of Modesto that:

SECTION 1. The above recitals are true and correct.

SECTION 2. A community facilities district is proposed to be established under the terms of the Act. The name proposed for the community facilities district is "City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2)" and is referred to in this Resolution as the "District."

SECTION 3. The boundaries of the District are shown on a map, hereby approved, entitled "Proposed Boundaries of City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2) of the City of Modesto, County of Stanislaus, State of California," a copy of which is on file in the office of the City Clerk. Pursuant to Sections 3110 and 3111 of the California Streets and Highways Code, the City Clerk shall certify on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in the City Clerk's office and, within 15 days after the adoption of this Resolution and in no event later than 15 days prior to the date of the public hearing referred to in Section 8, file a copy of the map with the County Recorder of the County of Stanislaus.

The Council finds that no land proposed to be included in the District is devoted primarily to agricultural, timber, or livestock uses and being used for the commercial production of agricultural, timber or livestock products.

SECTION 4. The Facilities proposed to be provided by the District are public facilities authorized to be acquired or constructed under the Act that have a useful life of five (5) years or longer. The Facilities are governmental facilities which the Council is authorized by law to contribute revenue to, or construct, own or operate; or which a local public agency is authorized by law to provide. The Council further determines that such Facilities are necessary to meet increased demands placed upon the City and other local agencies as a result of development occurring within the boundaries of the District.

The Facilities are proposed to include any and all incidental expenses related thereto, as authorized by the Act, including the payment in full of all amounts necessary to eliminate any fixed special assessment liens or to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee, charge, or assessment levied within the area of the District or to pay debt service on that indebtedness.

The Services proposed to be provided by the District are in addition to those provided in the District before its creation, since none of the Services have been or will be provided in the District before its creation.

SECTION 5. The Council determines that the public interest will not be served by allowing the owner(s) of property within the proposed District to enter into a contract pursuant to Section #53329.5(a) of the Act.

SECTION 6. (a) It is the intention of the Council that, except where funds are otherwise available to pay for the Facilities to be financed by the District, the incidental expenses related thereto, and the Services, special taxes sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied annually within the boundaries of the District. The rate, method of apportionment and manner of collection of the proposed special taxes is set forth in **Exhibit A.** Exhibit A provides sufficient detail to allow each landowner or resident within the District to estimate the maximum amount that such person will have to pay for the Facilities and the Services.

(b) In the case of the special tax to pay for the Facilities that is to be levied against any parcel of land used for private residential purposes (as defined and provided in the Act), (1) the maximum special tax has been specified as a dollar amount which will be calculated and thereby established not later than the date of which any such parcel of land is first subject to the special tax because of its use for private residential purposes, and which amount will not be increased over time by an amount exceeding two per cent (2%) per year, (2) after Fiscal Year 2037-2038, the special tax will no longer be levied or collected against any such parcel of land, and (3) under no circumstances will the special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels of land within the District by more than ten per cent (10%). The special tax to pay for the Facilities may, however, establish different tax rates for different categories of residential property, and may provide for a change in the dollar

amount of the special tax for the parcel if the size of the residence is increased or if the size or use of the parcel is changed.

(c) The obligation to pay the special tax to pay for the Facilities may be prepaid and permanently satisfied, and the lien of the special tax to pay for the Facilities discharged pursuant to the procedures set forth in Exhibit A.

(d) If the special tax to pay for the Facilities is prepaid and permanently satisfied as to a particular parcel of land, this Council shall cause to be prepared and recorded in the office of the County Recorder of the County of Stanislaus, which shall accept for recordation, a Notice of Cancellation of Special Tax Lien as to that parcel. The Notice of Cancellation of Special Tax Lien shall identify with particularity the special tax to pay for the Facilities which has been prepaid and permanently satisfied, state the book and page number in the records of the County Recorder where the Notice of Special Tax Lien being cancelled is recorded, contain the legal description and assessor's parcel number of the particular parcel of land subject to the lien, and contain the name of the owner of record of the parcel. The County Recorder shall mail the original Notice of Cancellation of Special Tax Lien to the owner of the property after recording the document. This Council may specify a charge for the preparation and recordation of the Notice.

SECTION 7. Pursuant to Section 53314.9 of the Act, this Council may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work-in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the District.

SECTION 8. A public hearing on the establishment of the District and the proposed rate, method of apportionment, and manner of collection of the special taxes shall be held at 6:00 p.m., or as soon thereafter as practicable, on Tuesday, June 12, 2007, at the regular

meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353, such time being not less than 30 or more than 60 days following the adoption hereof.

SECTION 9. The Public Works Director, as the officer of the City who will be responsible for providing the proposed Facilities and Services to be financed by the District, if it is established, is directed to study the proposed District, and, at or before the time of the hearing, cause to be prepared and filed with the Council a report containing: (a) a brief description of the Facilities and Services by type which will in such officer's opinion be required to adequately meet the needs of the District; (b) an estimate of: (i) the cost of providing the Facilities and Services; (ii) the fair and reasonable cost of any of the Facilities to be purchased; and (iii) the fair and reasonable cost of incidental expenses to be incurred in connection therewith, including the costs of the proposed bond financing and other related costs as provided in Section 53345.3 of the Act.

The report shall be made a part of the record of the hearing.

SECTION 10. At the time and place set forth in this Resolution for the hearing, any interested persons, including taxpayers, property owners and registered voters residing within the boundaries of the proposed District, may appear and be heard, and the testimony of all interested persons for or against the establishment of the District, the extent of the District, the furnishing of the Facilities and Services, or the proposed rate, method of apportionment and manner of collection of the special taxes will be heard and considered. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.

SECTION 11. The City Clerk is directed to publish a notice of the hearing, in the form required by the Act, not later than seven (7) days prior thereto, in a newspaper of general circulation published in the area of the District, being *The Modesto Bee*, and otherwise in accordance with Section 6061 of the California Government Code.

SECTION 12. (a) If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the territory proposed to be included in the District, or the owners of one-half (1/2) or more of the area of the land in the territory proposed to be included in the District and not exempt from the special taxes, file written protests against the establishment of the District, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to create the District or to levy the special taxes will be taken for a period of one year from the date of the decision of the Council.

(b) If the majority protests of the registered voters or the landowners are only against the furnishing of a specified type or types of the Facilities or Services within the District, or against levying a specified special tax, those types of Facilities or Services or the specified special tax will be eliminated from the District proceedings.

(c) At the conclusion of the hearing, if the Council determines to establish the District, it will adopt a resolution of formation and then submit the levy of the special taxes to the qualified electors of the District in a special election.

SECTION 13. (a) If, after the hearing, the Council adopts a resolution of formation establishing the District and submits the levy of the special taxes to the qualified electors of the District in a special election, such election will be held at least ninety (90) days, but not more than one hundred eighty (180) days following the adoption of the resolution of formation. The City Clerk shall, within three business days after the adoption of the resolution of formation, provide a copy of the resolution of formation, a certified map of sufficient scale

and clarity to show the boundaries of the District, and a sufficient description to allow the election official to determine the boundaries of the District, to the official conducting the election. Assessor's parcel numbers for the land within the District shall be included if it is a landowner election or the District does not conform to an existing district's boundaries and if requested by the official conducting the election.

(b) If the election is to be held less than one hundred twenty-five (125) days after the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required.

(c) Such time limits, or requirement pertaining to the conduct of the election, may be waived with the unanimous consent of the qualified electors of the District and the concurrence of the election official conducting the election.

(e) If at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the territory of the proposed District for each of the ninety (90) days preceding the close of the hearing, the vote will be by the registered voters of the proposed District, with each voter having one vote. Otherwise, the vote will be by the landowners of the proposed District and each landowner who is the owner of record at the close of the hearing, or the authorized representative thereof, will have one (1) vote for each acre or portion of an acre of land that such landowner owns within the proposed District. The number of votes to be voted by a particular landowner will be specified on the ballot provided to that landowner.

(f) Ballots for the special election authorized may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing or personal delivery of ballots by an affidavit, which shall constitute conclusive proof of such mailing or personal delivery in the absence of fraud. The voted ballots shall be returned to the election officer conducting the

election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

(g) Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election. Except as provided in the next sentence, there will be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in the California Elections Code. If the vote is to be by the landowners of the proposed District, analysis and arguments may be waived with the unanimous consent of all the landowners.

If the election is to be conducted by mail ballot, the election official conducting the election shall provide ballots and election materials, together with all supplies and instructions necessary for the use and return of the ballot. The identification envelope for return of mail ballots used in a landowner election shall contain the following: (1) the name of the landowner; (2) the address of the landowner; (3) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope; (4) the printed name and signature of the voter; (5) the address of the voter; (6) the date of signing and the place of execution of the declaration described in (3) above; and (7) a notice that the envelope contains an official ballot and will be opened only by the canvassing board.

(h) The procedures set forth in this Sectionfor conducting the consolidated special election may be modified as the Council may determine to be necessary or desirable by a resolution subsequently adopted by the Council.

SECTION 14. This Council may, by ordinance, authorize contributions by the City from any sources of revenue not otherwise prohibited by law, of any specified amount, portion or percentage of such revenue for any of the following: (1) acquiring or constructing any of the Facilities; (2) the acquisition of interests in real property; (3) paying debt service with

respect to the financing of any such acquisition or construction; (4) providing the authorized Services; and (5) the payment of expenses incidental to any of the foregoing.

SECTION 15. This Council reserves to itself the right and authority to allow any interested owner of property within the District, subject to the provisions of Section 53344.1 of the Act and to those conditions it may impose, and any applicable prepayment penalties as described in the bond indenture or comparable instrument or document, to tender in full payment or part payment of any installment of the special tax levied to pay for the Facilities or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

Rate and Method of Apportionment

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2007-1 (North Beyer #2) [herein "CFD No. 2007-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-1, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

"Annual Maintenance Special Tax Requirement" means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2007-1.

"CFD Formation" means the date on which the Resolution of Formation to form CFD No. 2007-1 was adopted by the City Council.

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-1.

"County" means the County of Stanislaus.

"Developed Property" means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007,
- for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007, and
- for Other Property, all Parcels for which a building permit for construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term "Final Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Maximum Annual Maintenance Special Tax" means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D.

"**Maximum One-Time Facilities Special Tax**" means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"**Maximum Special Taxes**" means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

"**Multi-Family Property**" means all Parcels in CFD No. 2007-1 for which building permits have been issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

"**Net Taxable Acreage**" or "**Net Taxable Acre**" means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"**One-Time Facilities Special Tax**" means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

"**Original Parcel**" means an Assessor's Parcel (or a parcel within a recorded Subdivision Map that has not yet been assigned an Assessor's Parcel number) that is in CFD No. 2007-1 at the time of CFD Formation or added to the CFD upon annexation. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

"**Other Property**" means, in any Fiscal Year, all Parcels of Taxable Property within the CFD for which building permits have been issued for construction of a non-residential structure.

"**Proportionately**" means, for Developed Property, that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Developed Property, respectively. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Maintenance Facilities Special Tax to the Maximum Annual Maintenance Special Tax is equal for all Assessor's Parcels of Undeveloped Property, respectively.

"**Public Property**" means any property within the boundaries of CFD No. 2007-1 that is owned by the federal government, State of California, County, City, or other public agency.

"Single Family Detached Lot" means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

"Single Family Detached Property" means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a residential unit that does not share a common wall with another Unit.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

"Subdivision Map" means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2007-1 which are not exempt from the Special Tax pursuant to law or Section G below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-1 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2007-1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor's Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-1. The Administrator shall also determine (i) whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a Subdivision Map for a portion of property in CFD No. 2007-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Subdivision Map was recorded, the Assessor does not yet recognize the new Parcels created by the Subdivision Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Subdivision Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Subdivision Map.

C. MAXIMUM SPECIAL TAXES

1. Original Parcels

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

TABLE 1
MAXIMUM SPECIAL TAXES
FISCAL YEAR 2007-08

Fiscal Year 2007-08 Assessor's Parcel Number or Subdivision Map Parcel Number	*Fiscal Year 2007-08 Maximum One-Time Facilities Special Tax**	*Fiscal Year 2007-08 Maximum Annual Maintenance Special Tax**
082-005-031	$223,146	$37,138
Parcel 2 of Parcel Map 55-PM-12	$120,123	$19,992

** Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.*

2. Successor Parcels

Upon recordation of a Subdivision Map that subdivides an Original Parcel, the Administrator shall apply the appropriate subsection below to determine the Maximum Special Taxes for each Successor Parcel:

a. ***All Successor Parcels are Single Family Detached Lots***

If all Parcels created by a recorded Subdivision Map are Single Family Detached Lots, the Administrator shall divide the Maximum Special Taxes assigned to the Original Parcel that was subdivided by the number of Single Family Detached Lots created within the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

b. ***No Successor Parcels are Single Family Detached Lots***

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

Step 1: Determine the total combined Net Taxable Acreage within all Successor Parcels created from subdivision or reconfiguration of the Original Parcel.

Step 2: Divide the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the Net Taxable Acreage determined in Step 1 to determine a Maximum One-Time Facilities Special Tax and a Maximum Annual Maintenance Special Tax per Net Taxable Acre.

Step 3: Multiply the Maximum Special Taxes per Net Taxable Acre determined in Step 2 by the Net Taxable Acreage of each Successor Parcel of Taxable Property to determine the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

c. ***Some, But Not All, Successor Parcels are Single Family Detached Lots***

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to determine the Maximum Special Taxes for each Successor Parcel:

Step 1: Separately identify: (i) the total Net Taxable Acreage created within the Subdivision Map, and (ii) the combined Net Taxable Acreage of all Single Family Detached Lots created within the Subdivision Map.

Step 2: Divide the Maximum One-Time Facilities Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum One-Time Facilities Special Tax per Net Taxable Acre.

Step 3: Divide the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum Annual Maintenance Special Tax per Net Taxable Acre.

Step 4: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum One-Time Facilities Special Tax for each Single Family Detached Lot.

Step 5: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum Annual Maintenance Special Tax for each Single Family Detached Lot.

Step 6: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum One-Time Facilities Special Tax for each Parcel.

Step 7: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2008 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Annual Maintenance Special Tax

Beginning in January 2008 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as

published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2007-1 and shall be collected as set forth in Section F below.

2. Annual Maintenance Special Tax

Each Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for the Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year.

Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year.

Step 3: If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2007-1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2007-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual

Maintenance Special Taxes through foreclosure or other available methods. The Annual Maintenance Special Tax shall be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services and all Administrative Expenses have been reimbursed.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property except Taxable Public Property, as defined herein.

H. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.

Exhibit "B"

LIST OF FACILITIES

EXHIBIT "B"

LIST OF FACILITIES

The facilities described below are all facilities which the City of Modesto Community Facilities District No. 2007-1 is authorized to finance.

- Oakdale Road (Principle Arterial) between Mable Ave. and Claratina Ave. This road segment includes a landscaped median and a landscaped parkway strip.
- Coffee Road (Minor Arterial) between Mable Ave. and Claratina Ave. This road segment includes a landscaped median.

LIST OF SERVICES

Included in City of Modesto CFD No. 2007-1 is the maintenance of the landscaping on Claratina Ave., Oakdale Road, Mable Ave. and Coffee Road. Maintenance of the Rose Villas park/basin site is also included.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-271

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PURCHASE OF NEW REMOTE TERMINAL UNITS (RTU'S) AND RADIOS, WITH RELATED EQUIPMENT, INCLUDING THE REPAIR OF RTU RADIOS AND BOARDS, FOR THE CITY OF MODESTO, FROM HSQ TECHNOLOGY, HAYWARD, CA, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY.

WHEREAS, the Public Works Department-Water Quality Control (WQC) Division intermittently has the need to install or replace RTU's, radios and related equipment as part of the Supervisory Control and Data Acquisition (SCADA) System, and

WHEREAS, Remote Terminal Units (RTU'S) are industrial computers used to collect, store, and transmit operational data (flows, pressures, pump status, valve position, and motor current) back to the SCADA control center, and

WHEREAS, commands from the control center are also transmitted to the RTU to start/stop pumps, open/close valves, and adjust setpoints, and

WHEREAS, the RTU can be programmed with control logic to independently operate a facility (start/stop equipment, shoutdown on certain alarms, and maintain pressure/level), and

WHEREAS, newer RTU's support the ability to communicate with other intelligent field devices such as operator touch screens, programmable logic controllers, and wireless input/output devices, effectively becomes a gateway for passing operational data between various devices, and

WHEREAS, the City of Modesto utilizes RTU's manufactured by HSQ Technology, the City's SCADA System provider, and

WHEREAS, much of the functionality of our SCADA system works specifically with HSQ RTU's and would be lost if another manufacturer's RTU's were used, and

WHEREAS, in FY 05/06, expenditures for RTU's, radios and related equipment were $104,000, and

WHEREAS, in FY 06/07, expenditures for RTU's, radios and related equipment to date have reached $81,400, and

WHEREAS, HSQ Technology is the sole provider for SCADA RTU's, radios and related equipment, and

WHEREAS, an annual purchase agreement with HSQ Technology for the purchase of new RTU's and radios, with related equipment, including the repair of RTU radios and boards will ensure availability and consistency in pricing for projects throughout the City, and

WHEREAS, Modesto Municipal Code Section 8-3,203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, however, one exception to the formal bid process, Modesto Municipal Code Section 8-3.204(b), states whereas the purchasing agencies requirements can be met solely by a single article or process. The sole source purchase of new remote terminal units and radios, with related equipment, includes repair, conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract for the purchase of new RTU's and radios, with related equipment, including the repair of RTU radios and boards to HSQ Technology, Hayward, CA, for a two (2) year agreement, with three (3) one-year contract extension options, at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the purchase of new RTU's and radios, with related equipment,

including the repair of RTU radios and boards to HSQ Technology, Hayward, CA, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-272

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF CONCRETE BOXES AND COVERS FOR THE FINANCE DEPARTMENT-CENTRAL STORES DIVISION, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $41,000

WHEREAS, the Finance Department-Central Stores Division has requested the purchase of concrete boxes and covers, and

WHEREAS, concrete boxes and covers are used for housing valves and meters, and

WHEREAS, concrete boxes and covers are stocked by the Central Stores Division and then issued to requesting departments, and

WHEREAS, the need and specifications for concrete boxes and covers has been developed over time through collaboration between Central Stores staff and division personnel requesting the materials, and

WHEREAS, by issuing RFB's, the City will achieve the best value for concrete boxes and covers, and meet Modesto Municipal Code requirements for formal bids, and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases, which meet or exceed $50,000 for material, equipment, or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Bid for the purchase of concrete boxes and covers conforms to the Modesto Municipal Code, and

WHEREAS, the funds for inventory purchases have been appropriated in account number 7110-120-8311-0439 (Inventory Purchases Stores), and

WHEREAS, material is purchased using these funds and recouped through sales to City Divisions, and

WHEREAS, the Purchasing Division has coordinated the drafting of bid specifications for concrete boxes and covers with the Central Stores Division,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a formal Request for Bid (RFB) for the purchase of concrete boxes and covers for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $41,000 as follows:

BE IT FURTHER RESOLVED THAT the City Clerk is hereby authorized to call for public competitive sealed bids for concrete boxes and covers to be opened in the City Clerk's office, 1010 10th Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

BE IT FURTHER RESOLVED THAT after sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-273

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING AND INSTALLATION OF PRE-TREATMENT PROGRAM SOFTWARE FOR THE PUBLIC WORKS ENVIRONMENTAL SERVICES DIVISION TO ENFOTECH & CONSULTING INC., LAWRENCEVILLE, NJ IN THE APPROXIMATE AMOUNT OF $96,000 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, the City's National Pollution Discharge Elimination System (NPDES) permit requires the tracking of industrial and other permitted customers to ensure compliance with pretreatment regulations, and

WHEREAS, the current process of using a Microsoft Access database does not allow for all-inclusive compliance tracking of usage or provide for current data monitoring, and

WHEREAS, since 2003 Public Works Environmental Services staff has been using individually developed spreadsheets to track compliance and a Microsoft Access database for billing industrial customers for sewer usage, and

WHEREAS, on April 25, 2006, Council approved Resolution No. 2006-255 authorizing the Purchasing Manager to issue formal Request for Proposals (RFP) for the furnishing and installation of Pre-Treatment Program Software for the Public Works Environmental Services Division, and

WHEREAS, the Purchasing Division issued RFP No. 0607-13 for the furnishing and installation of Pre-Treatment Program Software to seven (7) prospective proposers, posted the RFP on the City's Website and advertised in the local newspaper as required by law, and

WHEREAS, on November 7, 2006, proposals were formally opened with four (4) firms submitting proposals, and

WHEREAS, an evaluation committee assessed the proposals based on stated evaluation criteria, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommended award of proposal and contract for the furnishing and installation of Pre-Treatment Program Software for the Public Works Environmental Services Division to EnfoTech & Consulting Inc. of Lawrenceville, NJ and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment, or contractual services to be formally bid, and

WHEREAS, the issuance RFP No. 0607-13 for furnishing and installation of Pre-Treatment Program Software for the Public Works Environmental Services Division to meet the current NPDES permit requirements conformed to MMC Section 8-3.203,

WHEREAS, funds for the purchase of Pretreatment Program Software are budgeted in 6210-480-5217-5400,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the furnishing and installation of Pre-Treatment Program Software for the Public Works Environmental Services Division, to EnfoTech & Consulting of Lawrenceville, NJ in the approximate amount of $96,000.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order both for the furnishing and installation of Pre-Treatment Program Software for the Public Works Environmental Services Division, to EnfoTech & Consulting of Lawrenceville, NJ in the approximate amount of $96,000.

BE IT FURTHER RESOLVED that the City Manger or his designee is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST:

Jean Morris

Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-274

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE FURNISHING OF WELL REHABILITATION SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO ZIM INDUSTRIES, FRESNO, CA AS THE "PRIMARY" CONTRACTOR, AND LAYNE CHRISTENEN CO., FONTANA, CA AS THE "SECONDARY" CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $169,987

WHEREAS, the City of Modesto owns and operates 113 water well sites, which have a producing capacity of 109.97 million gallons per day (MGD) of water, and

WHEREAS, this water system services approximately 76,000 customer locations, for a total of 280,000 people, and

WHEREAS, many of the City's wells are old and starting to deteriorate, and

WHEREAS, wells with reduced water supply are inspected via video to verify the integrity of the well, but are only rehabilitated when the supply levels reach a critically low level, and

WHEREAS, by contracting for well rehabilitation services, the Water Division will be able to proactively rehabilitate the aged wells before they reach a critical level, and

WHEREAS, funding for well rehabilitation services will come from the Water Enterprise Fund, which derives its funding from user fees, and

WHEREAS, in order to ensure continued services to the City, contracts have been awarded to more than one contractor to provide for backup in case the primary contractor is unable to meet the City's needs. A secondary position contractor may be awarded a specific job only if the primary contractor is unable to perform the service, or if the

primary contractor is unable to complete the specific job within the time frame required by the City, and finally, if the primary contractor is unable to maintain acceptable quality standards required by the City,

WHEREAS, on May 3, 2005, Council approved Resolution No. 2005-231 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of well rehabilitation services for the Public Works Department, Water Division, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on August 29, 2006, the Purchasing Division issued Request for Bid No. 0607-10 for the furnishing of well rehabilitation services to sixteen (16) prospective bidders, six (6) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on October 3, 2006, RFB's were formally opened in the City Clerk's office. Of the sixteen (16) prospective bidders, three (3) companies chose to respond, and

WHEREAS, one of the bids received did not include the Bid Acknowledgement, **Exhibit "A"**, and the bid was deemed non-responsive and non-responsible by City staff, and received no consideration, and

WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bid and contracts for the furnishing of Well Rehabilitation Services for the Public Works Department, Water Division, to Zim Industries, Fresno, CA as the "primary" contractor, and Layne Christensen Co., Fontana, CA as the "secondary" contractor, for a two (2) year agreement, with three (3) one-year extension

options at the sole discretion of the City, for a total estimated annual cost of $169,987, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contracts for the furnishing of well rehabilitation services for the Public Works Department, Water Division, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the furnishing of Well Rehabilitation Services for the Public Works Department, Water Division, to Zim Industries, Fresno, CA as the "primary" contractor, and Layne Christensen Co., Fontana, CA as the "secondary" contractor, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $169,987.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the furnishing of Well Rehabilitation Services for the Public Works Department, Water Division, to Zim Industries, Fresno, CA as the "primary" contractor, and Layne Christensen Co., Fontana, CA as the "secondary" contractor, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $169,987.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-275

A RESOLUTION APPROVING THE ISSUANCE OF REVENUE BONDS BY THE MODESTO IRRIGATION DISTRICT FINANCING AUTHORITY RELATED TO THE FINANCING OF PHASE TWO OF THE DOMESTIC WATER TREATMENT AND DELIVERY SYSTEM OF THE MODESTO IRRIGATION DISTRICT, AUTHORIZING FINANCING AMENDMENTS TO THE AMENDED AND RESTATED TREATMENT AND DELIVERY AGREEMENT AND AUTHORIZING SWAP AGREEMENTS IN CONNECTION WITH REFUNDING OF THE MODESTO IRRIGATION DISTRICT FINANCING AUTHORITY DOMESTIC WATER PROJECT REVENUE BONDS, SERIES 1998D

WHEREAS, the City of Modesto, a charter city and municipal corporation organized and existing under the laws of the State of California (the "City"), currently provides municipal water service within the service boundaries of the Modesto Irrigation District (the "District"), and

WHEREAS, the District proposes to finance a Phase Two expansion of the domestic water treatment and delivery system of the District (the "Project") through the issuance of Modesto Irrigation District Financing Authority Domestic Water Project Revenue Bonds in one or more series (the "2007 Bonds"), and

WHEREAS, the 2007 Bonds will be issued for the benefit of the City's Municipal Water Utility and will be repaid from the debt service portion of payments (the "Debt Service Portion") made by the City in accordance with the Amended and Restated Treatment and Delivery Agreement entered into in 2005 by the City and the District (the "Treatment and Delivery Agreement"),

WHEREAS, the City and the District desire to amend the Treatment and Delivery Agreement in order to facilitate the issuance and/or refunding of the Bonds (as defined below) with a variable interest rate integrated with interest rate swaps (the "Swap Agreements") in connection with the Bonds, in the form of the Financing Amendments to Amended and Restated

Treatment and Delivery Agreement, dated as of June 1, 2007 (the "Treatment and Delivery Agreement Amendment"), by and between the City and the District;

WHEREAS, pursuant to Section 18.5.2 of the Treatment and Delivery Agreement, the District and the City have both agreed that with respect to one or more series of the Bonds, Variable Financing (as such term is defined in the Treatment and Delivery Agreement), as well as associated Swap Agreements, shall be applied to and used throughout the term of such series of Bonds; and

WHEREAS, the Modesto Irrigation District Financing Authority (the "Authority") previously issued its Modesto Irrigation District Financing Authority Domestic Water Project Revenue Bonds Series 1998D (the "1998D Bonds" and, together with the 2007 Bonds, the "Bonds") to refinance the domestic water treatment and delivery system of the District, and

WHEREAS, the City desires to confirm that the Authority may enter into a Swap Agreement in connection with the refunding of all or a portion of the 1998D Bonds, and

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

SECTION 1. The City Council of the City hereby finds and determines that the matters set forth in the preambles to this Resolution are true and correct.

SECTION 2. The City Council of the City hereby approves of the issuance of the 2007 Bonds by the Authority at one time, or from time to time, in one or more series separately or differently identified for the benefit of the City's Municipal Water Utility; provided, however, that the aggregate principal amount of the 2007 Bonds shall not exceed $97,000,000, the final maturity of the 2007 Bonds shall not exceed September 1, 2039 and the underwriter's discount with respect to the 2007 Bonds shall not exceed 0.55%.

SECTION 3. The proposed form of the Official Statement relating to the 2007 Bonds (the "Official Statement") as presented to this meeting is hereby approved. Bear, Stearns & Co. Inc., as underwriter with respect to the 2007 Bonds, is hereby authorized to distribute copies of the Official Statement in preliminary form to prospective purchasers of the 2007 Bonds and is hereby directed to distribute copies of the Official Statement in final form to all actual purchasers of the 2007 Bonds. The Mayor, the City Manager or Finance Director is hereby authorized and directed to execute and deliver a final Official Statement, in substantially the form as such deemed final Preliminary Official Statement.

SECTION 4. The proposed form of the Treatment and Delivery Agreement Amendment as presented to this meeting is hereby approved. The Mayor, the City Manager or Finance Director is hereby authorized and directed to execute and deliver the Treatment and Delivery Agreement Amendment in substantially such form.

SECTION 5. The Treatment and Delivery Agreement, as amended, is ratified and confirmed.

SECTION 6. Subject to the conditions specified in Section 2 hereof, the Mayor, the City Manager or Finance Director (or his or her designee) are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents, certificates and other instruments, including a continuing disclosure agreement and a tax certificate relating to the 2007 Bonds, which they may deem necessary or advisable, to carry out, give effect to and comply with the terms and intent of this Resolution.

SECTION 7. The City Council of the City hereby confirms that the Authority may enter into one or more Swap Agreements (the "1998D Swap Agreements") in connection with the refunding of all or a portion of the Series 1998D Bonds; provided that, (1) the maximum notional amount of the applicable 1998D Swap Agreements executed in connection with the refunding of all or a portion of the 1998D Bonds shall not exceed $75,000,000; (2) the estimated

present value savings from completing the refunding of all or a portion of the 1998D Bonds by including the 1998D Swap Documents shall be not less than four percent (4%) for the 1998D Bonds to be refunded, all as calculated by Bear Stearns and confirmed by the financial advisor to the City, which calculation upon such confirmation shall be final and conclusive and binding upon the City; and (3) the 1998 Swap Agreements shall be executed no later than December 31, 2007.

SECTION 8. This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Marsh who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the Resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
Susana Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-276

A RESOLUTION ACCEPTING THE 2006 COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM (CEDAP) FOR VIDEODETECTIVE EQUIPMENT FROM THE DEPARTMENT OF HOMELAND SECURITY'S (DHS) OFFICE OF GRANTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, the Modesto Police Department submitted an application from the Department of Homeland Security's (DHS) Office of Grants, for VideoDetective equipment, and

WHEREAS, the VideoDetective is very versatile and will allow law enforcement all Stanislaus County law enforcement agencies, Highway Patrol, Sheriffs Office, Fire Departments, and the California State University Police to digitalize and enhance videotapes and assist in the viewing and distributing of clear video images, and

WHEREAS, this equipment will be used to conduct surveillance of both known and suspected criminals, especially those who pose a threat to national security, and

WHEREAS, acceptance of this grant enhances Healthy and Safe Strategic Action Plan, H.1.B.8., which calls for obtaining public service grants, and

WHEREAS, the total VideoDetective equipment is valued at approximately $49,950 with no local match required of the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2006 Commercial Equipment Direct Assistance Program (CEDAP) for VideoDetective equipment from the Department of Homeland Security's (DHS) Office of Grants.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-277

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE CONSTRUCT ADDITIONAL PARKING LOT AT AIRPORT PASSENGER TERMINAL PROJECT, ACCEPTING THE BID AND APPROVING A $618,890.00 CONTRACT WITH TEICHERT CONSTRUCTION, FOR THE PROJECT TITLED, "CONSTRUCT ADDITIONAL PARKING LOT AT AIRPORT PASSENGER TERMINAL," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Construct Additional Parking Lot at Airport Passenger Terminal" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Construct Additional Parking Lot at Airport Passenger Terminal" were opened at 11:00 a.m. on April 17, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $618,890.00 received from Teichert Construction, be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Teichert Construction, in the amount $618,890.00, and hereby awards Teichert Construction, the contract titled "Construct Additional Parking Lot at Airport Passenger Terminal".

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-278

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM BUDGET FOR FY2006-07 IN ORDER TO FULLY FUND THE CONTRACT WITH TEICHERT CONSTRUCTION, AND COVER CONSTRUCTION CONTINGENCY AND CONSTRUCTION ADMINISTRATION COSTS BY DECREASING CIP ACCOUNT 6320-440-A804-6040 (AIRPORT SIGNAGE/TAXI LANE) BY $62,668, AND RETURNING THE FUNDS TO ACCOUNT 6320-800-8000-8003 (SPECIAL AVIATION FUND RESERVES), THEN DECREASING ACCOUNT 6320-800-8000-8003 (SPECIAL AVIATION FUND RESERVES) AND REAPPROPRIATING $62,668 TO CIP ACCOUNT 6320-440-A008 (AIRPORT TERMINAL PARKING LOT EXPANSION)

WHEREAS, the CIP account 6320-440-A008 (Airport Terminal Parking Lot Expansion) only provides $690,000 in available funds to fully fund construction of the Airport Terminal Parking Lot project in the estimated total amount of $752,668, including funding a Contract with Teichert Construction, for construction and to cover construction contingency and construction administration costs including City staff labor, and

WHEREAS, certain budgetary transactions are necessary to fully fund said Contract with Teichert Construction, in the amount of $618,890 for construction services, $61,889 for construction contingency, and $61,889 to cover construction administration costs, including contract administration by City staff, and $10,000 for City staff to install a temporary overflow parking lot, for a total of $752,668, and

WHEREAS, the CIP Account 6320-440-A804 (Airport Signage/Taxi Lane) experienced savings due to a favorable bid below the budgeted engineer's estimate for construction, and

WHEREAS, the total amount of $62,668 is to be transferred by decreasing CIP Account 6320-440-A804-6040 (Airport Signage/Taxi Lane) and returning the funds to Account 6320-800-8000-8003 (Special Aviation Fund Reserves), then decreasing

Account 6320-800-8000-8003 (Special Aviation Fund Reserves) and reappropriating $62,668 to CIP account 6320-440-A008 (Airport Terminal Parking Lot Expansion),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the Contract with Teichert Construction, in the amount of $618,890 for construction services, $61,889 for construction contingency, and $61,889 to cover construction administration costs, including contract administration by City staff, and $10,000 for City staff to install a temporary overflow parking lot, for a total of $752,668 for the Airport Terminal Parking Lot Expansion project.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-279

A RESOLUTION ACCEPTING THE WORK BY MCPHEE MASONRY, INC., FOR THE PROJECT TITLED "MODESTO POLICE DEPARTMENT TRAINING CENTER BLOCK WALL EXTENSION" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $19,849.50

WHEREAS, a report has been filed by the Public Works Director that the project titled "Modesto Police Department Training Center Block Wall Extension" has been completed by McPhee Masonry, Inc., in accordance with the contract agreement dated December 5, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Modesto Police Department Training Center Block Wall Extension" is hereby accepted as complete from said contractor, McPhee Masonry, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $19,849.50, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-280

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM BUDGET FOR FY 2006-07 TO CREATE A NEW PROJECT 0510-160-E691 - TRAFFIC OPERATIONS FACILITY, AND AUTHORIZING THE APPROPRIATION OF $61,000 FROM LOCAL TRANSPORTATION FUND RESERVES (0510-800-8000) TO FUND PAVING AND DRAINAGE-RELATED LANDSCAPING BY CITY FORCES AT THE 117 ELM STREET BUILDING.

WHEREAS, City-owned property at 117 Elm Street holds a partially completed operations building to house the Traffic Operations Division of the Public Works Department, and

WHEREAS, the current status of the facility is that metal structures are in place, paving needs to be done, and drainage-related landscape needs to be installed, and

WHEREAS, interior improvements will then need to be made prior to occupancy, and

WHEREAS, Traffic Operations employees are currently housed in a substandard building with chronic roof leaks, plumbing, and HVAC problems, which creates ongoing demands for maintenance, and

WHEREAS, BOVEE Environmental assessed the building and recommended removal and disposal of building materials with visible mold or moisture, and

WHEREAS, BOVEE also suggested removal of water damaged ceiling tiles and clean all exposed wood framing behind ceiling tiles, and

WHEREAS, staff began preparations only to uncover and expose new areas of mold growth that need to be addressed, and

WHEREAS, discontinuing investment in the degraded building, which will be demolished to make way for the Bus Maintenance Operations area, and establishing

funding for the completion of the 117 Elm Street facility was deemed more appropriate, and

WHEREAS, staff recommends the use of City Forces to complete paving and drainage-related landscaping at an estimated cost of $61,000, a projected savings of $69,000 from the total estimated cost of the project, and

WHEREAS, completion of the paving and drainage-related landscaping will allow the current buildings to be used for storage, and

WHEREAS, funds are available from the Local Transportation Fund Reserves (0510-800-8000) in the amount of $61,000, and

WHEREAS, the Finance Committee, at its March 26, 2007 meeting, recommended approval of this item,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Capital Improvement Program Budget for FY 2006-07 to create a new project 0510-160-E691 – Traffic Operations Facility.

BE IT FURTHER RESOLVED that the Council hereby authorizes the appropriation of $61,000 from Local Transportation Fund Reserves (0510-800-8000) to fund paving and drainage-related landscaping by City Forces at the 117 Elm Street Building.

BE IT FURTHER RESOLVED that the Finance Department is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST:

Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD
City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-281

A RESOLUTION APPROVING THE CITY OF MODESTO DRAFT 2007-2008 HUD ANNUAL ACTION PLAN FOR THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME PARTNERSHIP GRANT (HOME), AND EMERGENCY SHELTER GRANT (ESG) FUNDS, AUTHORIZING SUBMISSION OF AN APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PERTAINING TO THE 2007-2008 ANNUAL ACTION PLAN, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SIGN THE REQUIRED CERTIFICATIONS AND DOCUMENTS FOR SUBMITTAL TO THE DEPARTMENT OF HOUSING AND URBAN DEPARTMENT (HUD).

WHEREAS, the City of Modesto receives Community Development Block Grant (CDBG), HOME Investment Partnership Grant (HOME), and Emergency Shelter Grant (ESG) funds from the U. S. Department of Housing and Urban Development (HUD), and

WHEREAS, the City receives these grants annually because of its population size, number of households living below the poverty line, and the number of housing units that are considered substandard, and

WHEREAS, submittal of an Annual Action Plan is required to receive the City's entitlement grants from HUD, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended support of this item at its May 2, 2007, meeting, and

WHEREAS, a duly noticed public hearing was held by the City Council on May 8, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider submission of an application to the U.S. Department of Housing and Development (HUD) pertaining to the 2007-2008 HUD Annual Action Plan, which describes how the City intends to spend Federal assistance received from HUD in the areas of Community Development, Housing Production and Homeless Assistance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto draft 2007-2008 HUD Annual Action Plan for the use of

Community Development Block Grant (CDBG), HOME Investment Partnership Program (HOME) and the Emergency Shelter Grant (ESG), a copy of which is on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the required certificates and documents.

BE IT FURTHER RESOLVED that City staff is hereby authorized to submit an application to the U.S. Department of Housing and Urban Development (HUD) pertaining to the 2007-2008 Annual Action Plan which describes how the City intends to spend Federal assistance received from HUD in the areas of Community Development, Housing Production and Homeless Assistance.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Amended 4/22/08
2008-245

RESCINDED
Print
MAY 13, 2008
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2008-291

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-282

A RESOLUTION ADJUSTING RENTAL CHARGES AND FEES FOR ACTIVITIES AND SERVICES AT THE MODESTO CITY-COUNTY AIRPORT/HARRY SHAM FIELD, AND RESCINDING COUNCIL RESOLUTION NO. 2006–272

WHEREAS, Section 7-3.401 of the Modesto Municipal Code authorizes Council, by resolution, to establish rental charges and fees for activities and services at the Modesto City-County Airport/Harry Sham Field, and

WHEREAS, Modesto City Council Resolution No. 2003-267 provides for Airport rate increases based upon the Consumer Price Index (CPI) for All Urban Consumers for the western United States, and

WHEREAS, during the past year the Consumer Price Index (CPI) of the western United States increased at a rate of three and four-tenths percent (3.4%), and

WHEREAS, Modesto City Council Resolution No. 2006-272 established the current Airport Rental Charges and Fees and contained provisions for a rate increase to go into effect July 1, 2006 based upon an increase in the Consumer Price Index, and

WHEREAS, the Modesto City-County Airport Advisory Committee recommended adoption of the 3.4% rate increase at its meeting on March 21, 2007, and

WHEREAS, by an agenda report to the Economic Development Committee on April 18, 2007 from the Public Works Director, City staff recommended a rate increase of 3.4% for aircraft hangars, office space, and tie-down rentals, and

WHEREAS, a duly noticed public hearing was held by the Council on May 8, 2007 at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing all interested persons were given the opportunity to

be heard relative to the proposal to increase the rates and charges for the Modesto City-County Airport's aircraft hangars, office space, and tie-down rentals,

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

SECTION 1. HANGARS. Rental charges for the rental of hangars at the Modesto City-County Airport/Harry Sham Field are hereby established as follows, payable in advance:

(a) T-Hangars

Hangar A	.....	$125/*$153 unit per month
End Units	.....	$145/*$173 unit per month
Hangar B	.....	$151/*$179 unit per month
End Units	.....	$187/*$215 unit per month
Hangar C	.....	$159/*$188 unit per month
End Units	.....	$193/*$220 unit per month
Hangar D	.....	$143/*$171 unit per month
End Units	.....	$170/*$199 unit per month
Hangar E	.....	$208 unit per month
End Units	.....	$243 unit per month
Hangar F	.....	$208 unit per month
End Units	.....	$243 unit per month
Hangar G	.....	$208 unit per month
Hangar H	.....	$208 unit per month
Hangar I	.....	$407 unit per month
Hangar J	.....	$208 unit per month
Hangar K	.....	$234 unit per month
End Unit	.....	$349 unit per month
Storage	.....	$83 per month

Portable Land Rent ..... $61 unit per month

(* T-Hangars A – D with electrical service)

(b) Storage Hangars:

Hangar No. 1 .... $1,525.00 per month

Hangar No. 2 .... $1,273.00 per month

Hangar No. 3 .... $ 670.00 per month

Hangar No. 4 .... $1,141.00 per month

Hangar No. 5 .... $1,135.00 per month

Hangar No. 6 .... $ 665.00 per month

A five percent (5%) discount will be made in any of the above rental charges when a year's lease is entered into and the year's rental charges are paid in advance.

SECTION 2. TIE-DOWN FEES. Tie-down charges and fees at the Modesto City-County Airport/Harry Sham Field are hereby established as follows, payable in advance:

(a) Tail-in Tie-Down – Permanent, light single and multi-engine (under 12,500 lbs.) $38.00 per month

(b) Taxi-in Tie-Down – Permanent, light single and multi-engine (under 12,500 lbs.) $61.00 per month

(c) Taxi-in Tie-Down – Permanent, large multi-engine (over 12,500 lbs.) $.044 per square foot per month

(d) Taxi-in Tie-Down – Transient, helicopter/single-engine aircraft $7.00 per day

(e) Taxi-in Tie-Down – Transient, twin-engine aircraft (under 12,500 lbs.) $9.00 per day

(f) Taxi-In Tie-Down – Transient, twin-engine aircraft (over 12,000 lbs.) $13.00 per day

(g) Jets – $13.00 per day

A five-percent (5%) discount will be made in the rental charges set forth in subparagraphs (a), (b), and (c), above when a year's lease is entered into and the year's rental charges are paid in advance.

A volume discount may be given to Fixed Base Operators (FBO) that operate flight schools for light single and multi-engine aircraft (under 12,500 lbs.) for tie-down spaces as set forth in subsections (a) and (b) above. For every two tail-in spaces the FBO agrees to lease, one taxi-in tie-down may be leased for the same price as a tail-in tie-down.

Overnight tie-down of aircraft belonging to or in the custody or possession of a lessee at the Modesto City-County Airport/Harry Sham Field shall be subject to the normal tie-down charge as specified by this section.

SECTION 3. OFFICE SPACE. The monthly charge for office spaces at the Modesto City-County Airport/Harry Sham Field are hereby established as follows:

(a)	Old Administration Building	.....	$.84 per square foot
(b)	Office Building No. 1	.....	$.84 per square foot
(c)	Office Building No. 2	.....	$.84 per square foot
(d)	Hangar Office Space	.....	$.491 per square foot

SECTION 4. TEMPORARY USE OF AIRPORT PASSENGER TERMINAL. Organization and service providers desiring to temporarily use the passenger terminal will be charged a daily rate:

(a) Ticket counter ..... $.092 per square foot

(b) Other areas ..... $.092 per square foot

SECTION 5. NONSCHEDULED TRANSIENT AIRCRAFT CARRYING PASSENGERS AND/OR CARGO FOR HIRE. Aircraft landing at the Modesto City-County Airport/Harry Sham Field shall pay a landing fee as follows:

(a) All light single, multi-engine aircraft and helicopters - $10.00 per landing

(b) All large single and multi-engine aircraft – $.66 per 1,000 pounds of gross weight, but not less than $10.00 per landing

(c) All transient aircraft owned and operated by individuals, companies, and corporations carrying their own products shall not be charged for the first two (2) trips per calendar months. All other trips for the same calendar month shall be charged for at the same rates applied to nonscheduled aircraft carrying cargo for hire.

(d) No landing fee shall be charged for any aircraft, which lands at the airport due to any mechanical or other emergency, except weather, provided that such emergency is reported to the Airport Control Tower prior to landing.

SECTION 6. PASSENGER FACILITY CHARGE (PFC). Commercial air carrying passengers excluding "frequent flyers" or similar airline bonus award enplaning at Modesto City-County Airport/Harry Sham Field shall pay a PFC as approved by Federal Aviation Regulations (FAR) Part 158.

(a) Enplane passenger by airline $3.00 per ticket passengers.

SECTION 7. ADVERTISEMENT CALLBOARD. Firms wishing to advertise in the airport passenger terminal shall have an approved agreement with the City of Modesto. A monthly charge shall be assessed for the use of the advertisement callboard as follows

Display Size	Display Only	Display & Telephone
7.5" x 9.5"	$15.00	$25.00

7.5" x 21"	$35.00	$55.00
19" x 21"	$45.00	$65.00

SECTION 8. FAX SERVICE. Persons wishing to use the airport administration office fax machine shall be charged for the service. Airport personnel is authorized to collect as follows:

(a) Incoming Service ..... $.50 per page

(b) Outgoing Service ..... Area code 209 - $1.00 per page
Other area codes - $2.00 first page
$1.50 - all other pages

SECTION 9. PERMANENTLY BASED COMMERCIAL SERVICES. Any person engaging in a commercial enterprise permanently based at the Modesto City-County Airport/Harry Sham Field shall pay to the City a fee equivalent to the City Business License Fees set forth in Chapter 1 of Title 6 of the Modesto Municipal Code, except that a minimum fee of $100 will be paid for each aircraft sold, for the privilege of engaging in business in the City of Modesto and on the Airport. Said sum shall be payable at the time and in the manner provided for in Chapter 1 of Title 6 of the Modesto Municipal Code.

SECTION 10. FUEL FLOWAGE FEES. A fuel flowage fee of six cents ($.06) per gallon of fuel sold or dispensed on the Airport shall be collected for the City of Modesto by the fuel vendors, except that reduced fuel flowage fees collected from scheduled air carriers can be negotiated for volume purchases.

SECTION 11. TEMPORARILY BASED COMMERCIAL SERVICES. Any person engaging in a commercial enterprise, temporarily based at the Modesto City-County Airport/Harry Sham Field, shall pay to the City a license fee in the sum of Two Hundred and no/100ths ($200.00) Dollars, payable in advance.

Each such operator shall also pay to the City as a minimum an additional sum of Ninety and no/100ths ($90.00) Dollars per month, or any portion thereof, payable in advance, for the privilege of using the Airport and its facilities.

SECTION 12. OFF-AIRPORT CAR RENTAL OPERATOR FEE. Off-airport operators picking up customers at the Modesto City-County Airport/Harry Sham Field will pay to the City of Modesto the greater of ten percent (10%) of gross on time mileage of vehicles rented or the monthly charge for passenger terminal advertisement space and callboard phone service. Additionally, the operators will be accessed a parking fee at the same rate on-airport car rental operators are charged for vehicles left in the public parking area overnight.

SECTION 13. MOTOR VEHICLE STORAGE CHARGES. Any person who parks a motor vehicle at the Modesto City-County Airport/Harry Sham Field for longer than thirty (30) days at a time shall pay to the City a parking fee of Twenty-five and no/100ths ($25.00) Dollars per month, payable in advance.

SECTION 14. PENALTIES. A five percent (5%) per month penalty charge shall be made on any of the charges and fees established by this resolution when such charges and fees are not paid within thirty (30) days after they are due and payable. No penalties will be collected on the PFC.

SECTION 15. ANNUAL ADJUSTMENT OF RENTS, FEES AND CHARGES. Commencing July 1, 2005, the rents, fees and charges set forth in Sections 1, 2, and 4 of this resolution may be adjusted annually as of the first day of July.

Said rents, fees, and charges shall be adjusted in the following manner: The base for computing the adjustment is the National Consumer Price Index for the West Urban

(all urban consumers), published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), with a base year of 1982 – 1984 = 100 ("Beginning Index"). The Index published most immediately preceding the Adjustment Date in question ("Adjustment Index") is to be used in determining the amount of the adjustment. If the Adjustment Index has increased over the Beginning Index, the rents, fees and charges set forth in this resolution shall be set by multiplying the rents, fees and charges set forth in this resolution by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index.

In no case shall the minimum rents, fees and charges be less than existing approved and adopted rents, fees and charges nor shall any increase in a year be greater than five (5%) percent. If the indexes change so that the base year differs from that in effect on July 1, 2005, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised at any time after the effective date of this resolution, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

SECTION 16. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on July 1, 2007.

SECTION 17. SUPERSEDE. This resolution rescinds Council Resolution No. 2006-272.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of May, 2007 by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carrier and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-283

A RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $2,582,599 IN SECTION 5307 FORMULA FUNDS FOR PUBLIC TRANSIT OPERATING AND CAPITAL PURPOSES AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS.

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

WHEREAS, the City of Modesto has provided all annual certifications and assurances to the FTA required for the projects, and

WHEREAS, each year the City of Modesto submits a grant application for Section 5307 funds from the formula apportionment made available to the Modesto Urbanized area by the FTA, and

WHEREAS, the City of Modesto has received authority from the Designated Recipient, StanCOG, to apply for Section 5307 Urban Area Formula Program Assistance for no more than $2,582,599 for FY 2006-2007, and

WHEREAS, the projects in the Section 5307 grant application are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project costs, and

WHEREAS, by a report to the Council dated April 19, 2007, from the Public Works Department, City staff recommended submitting a grant application for $2,582,599 in FTA Section 5307 formula funds to partially offset the operational and capital costs of the City's public transit program, and

WHEREAS, a public hearing was held on May 8, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes approves the submittal of a grant application for Federal funds in

the amount of $2,582,599. Section 5307 with the Federal Transit Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the FTA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood,CityAttorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 200-284

A RESOLUTION AUTHORIZING THE FILING OF AMENDMENT NO. 3 TO GRANT NUMBER CA-03-0562 FOR THE NEW BUS MAINTENANCE FACILITY WITH THE FEDERAL TRANSIT ADMINISTRATION UNDER SECTION 5309 OF THE FEDERAL TRANSIT ACT IN THE AMOUNT OF $337,843 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT AMENDMENT DOCUMENTS.

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

WHEREAS, the City of Modesto has provided all annual certifications and assurances to the FTA required for the projects, and

WHEREAS, the City of Modesto had an approved Federal Transit Administration (FTA) Section 5309 grant for $3,668,116 in federal funds for the new Bus Maintenance Facility, and

WHEREAS, on June 26, 2003, by Resolution No. 2003-328 the City Council approved Amendment No. 1 to the Section 5309 grant that added $445,585 to the approved amount of federal funds for said project, and

WHEREAS, on June 28, 2005, by Resolution No. 2005-339 the City Council approved Amendment No. 2 to the Section 5309 grant that added $3,277,064 to the approved amount of federal funds for said project, and

WHEREAS, $337,843 in Section 5309 funds have been earmarked by Congress for the Bus Maintenance Facility under SAFETEA, and

WHEREAS, an amendment to the current Section 5309 grant, as amended by Amendment No. 1 and Amendment No. 2, is required to access these earmarked funds, and

WHEREAS, the Bus Maintenance Facility project funds in the Section 5309 grant amendment application are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant amendment for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project costs, and

WHEREAS, by a report to the Council dated April 19, 2007, from the Public Works Department, City staff recommended amending the current FTA Section 5309 grant for the Bus Maintenance Facility, and

WHEREAS, a public hearing was held on May 8, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the filing of Amendment No. 3 in the amount of $337,843 to Federal Section 5309 Grant Number CA-03-0562 for the new bus maintenance with the Federal Transit Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the FTA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn , who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 200-285

A RESOLUTION AUTHORIZING THE FILING OF AMENDMENT NO. 4 TO GRANT NUMBER CA-03-0562 FOR THE NEW BUS MAINTENANCE FACILITY WITH THE FEDERAL TRANSIT ADMINISTRATION UNDER SECTION 5309 OF THE FEDERAL TRANSIT ACT IN THE AMOUNT OF $495,000 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT AMENDMENT DOCUMENTS.

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

WHEREAS, the City of Modesto has provided all annual certifications and assurances to the FTA required for the projects, and

WHEREAS, the City of Modesto had an approved Federal Transit Administration (FTA) Section 5309 grant for $3,668,116 in federal funds for the new Bus Maintenance Facility, and

WHEREAS, on June 26, 2003, by Resolution No. 2003-328 the City Council approved Amendment No. 1 to the Section 5309 grant that added $445,585 to the approved amount of federal funds for said project, and

WHEREAS, on June 28, 2005, by Resolution No. 2005-339 the City Council approved Amendment No. 2 to the Section 5309 grant that added $3,277,064 to the approved amount of federal funds for said project, and

WHEREAS, on May 8, 2007, by Resolution No.2007-284 the City Council approved Amendment No. 3 to the Section 5309 grant that added $337,843 to the approved amount of federal funds for said project, and

WHEREAS, $495,000 in Section 5309 federal funds for the Bus Maintenance Facility have been earmarked by Congress under SAFETY-LU for this project, and

WHEREAS, an amendment to the current Section 5309 grant, as amended by Amendment No. 1, Amendment No. 2, and Amendment No. 3 is required to access these earmarked funds, and

WHEREAS, the Bus Maintenance Facility project funds in the Section 5309 grant amendment application are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant amendment for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project costs, and

WHEREAS, by a report to the Council dated April 19, 2007, from the Public Works Department, City staff recommended amending the current FTA Section 5309 grant for the Bus Maintenance Facility, and

WHEREAS, a public hearing was held on May 8, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the filing of Amendment No. 4 in the amount of $495,000 to Federal Section 5309 Grant Number CA-03-0562 for the new bus maintenance with the Federal Transit Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the FTA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn , who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 200-286

A RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING IN $6,498,968 SECTION 5309 COMPETITIVE FUNDS FOR THE NEW BUS MAINTENANCE FACILITY AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS.

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

WHEREAS, the City of Modesto has provided all annual certifications and assurances to the FTA required for the project, and

WHEREAS, the City of Modesto is in need of a new Bus Maintenance Facility at a cost of $19,303,224, and

WHEREAS, the project is eligible to receive up to $15,442,579 in FTA funds,

WHEREAS, to date the City of Modesto has received $8,943,608 in FTA Section 5307 and Section 5309 funding for the project, and

WHEREAS, the project is eligible to receive an additional $6,498,968 in FTA funds, and

WHEREAS, FTA funding for the Bus Maintenance Facility grant application is included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project cost, and

WHEREAS, by a report to the City Council dated April 19, 2007, from the Public Works Department, City staff recommended submitting an application for an FTA Section 5309 grant in the amount of $6,498,968 for the Bus Maintenance Facility, and

WHEREAS, a public hearing was held on May 8, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto

that it hereby approves the submittal of a grant application for Federal Section 5309 funds on behalf of the City of Modesto with the Federal Transit Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the FTA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

RESCINDED
MAY - 1 2012
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2012-164

Print

AMENDED on Mar. 22, 2011 By Resolution 2011-106

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-287

A RESOLUTION AMENDING AND RESTATING RESOLUTION NO. 93-265, RESCINDING SEWER BOND REDEMPTION CHARGES, AND ESTABLISHING WASTEWATER CAPACITY CHARGES

WHEREAS, Section 5-6.801 of the Modesto Municipal Code provides that the Council may establish by resolution charges for the Connection of property to the sewage system, and

WHEREAS, engineering consultants have recommended certain improvements to the City's Wastewater Transmission and Treatment Systems System and estimated the total cost both of the improvements and of the correction of existing Deficiencies, and

WHEREAS, rate consultants have apportioned the costs among the City's wastewater user classifications in accordance with Unit costs attributable to sewage Flow, Strength and Solids Content, and

WHEREAS, Resolution No. 93-265 is amended below with respect to its Sections 1 and 2, and is reaffirmed and restated in every other respect, and

WHEREAS, a method of administration for adjustment of Capacity Charges to account for inflation in construction projects should be specified, and

WHEREAS, there is a need for policies to deal consistently with calculation of Capacity Charges for transitional properties, the City Council does amend and restate Resolution No. 93-265 to rescind Section 1 therein, and to restate Section 2, below, and to add additional sections as follows, and

WHEREAS, The California Environmental Quality Act requires analysis for changes in Capacity Charges, and such analysis was completed in the Master

Environmental Impact Report (SCH No. 2006052076) certified by the Council on March 13, 2007,

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

Definitions:

Capacity Charge - A one-time charge to be paid by or on behalf of a prospective wastewater discharger for new or modified facilities existing in, or planned to be added to the City Wastewater System, minus Deficiencies.

City Wastewater System - The City's physical assets dedicated to the provision of wastewater transmission and treatment, including assets for the collection, treatment, pumping, storage, land application, metering, testing and reporting of wastewater, within or connected to physical assets in City's Municipal Sewer District No. 1.

Connection - The attachment of pipe facilities to the City Wastewater System to commence wastewater transmission and treatment service.

Deficiencies - Wastewater facilities required by law or recommended by generally recognized authority as being necessary to the provision of a modern, safe, adequate, wastewater system of the City's size, with prudent reserves of transmission and treatment infrastructure to meet reasonable foreseeable contingencies that are absent from the City Wastewater System at any particular point in time.

Director - The Public Works Director of the City of Modesto, his/her designee, or the Acting or Interim Public Works Director, as the case may be.

Equivalent Dwelling Unit or EDU – A single family equivalent dwelling unit based upon standardized, estimated discharge characteristics of a typical single family dwelling of 290 gallons per day (gpd), 200 milligrams per liter (mg/L) of strength Five Day Biochemical Oxygen Demand (BOD), and 200 mg/L of Total Suspended Solids content (TSS).

Flow - The actual or estimated maximum daily quantity of wastewater being transmitted for treatment expressed in gallons per day.

MMC - Modesto Municipal Code.

Solids Content - A synonym for Total Suspended Solids (TSS), the primary indicator of the cost of treatment and/or removal of the solid components of wastewater expressed in pounds per day.

Strength - A synonym for Five Day Biochemical Oxygen Demand (BOD), the primary indicator of the cost of treatment of the organic content of wastewater expressed in pounds per day.

Unit Cost - The cost in dollars and/or cents per gallon or pound, as appropriate, to transmit and/or treat wastewater or its constituent components.

Wastewater- For purposes of interpreting this resolution the term sewer and wastewater are interchangeable.

SECTION 1. Section 1 of Resolution No. 93-265 is hereby rescinded in its entirety, and a new and different Section 1 is amended in its place, enacted and set forth in full as follows:

A. The Capacity Charge for an EDU on or after August 1, 2007, shall be $4,876.00.

B. The Unit Cost capacity charges for connecting dischargers classified as commercial or industrial on and after August 1, 2007, shall be 14.073 dollars per gallon per day of Flow, $1,299.175 per pound of BOD per day (organic strength), and $345.209 per pound of TSS per day (solids content).

SECTION 2. The Capacity Charge for residential construction set forth above shall be paid at the time a building permit is issued for a building or structure. In those cases where a building exists, the Capacity Charge shall be collected at the time at which a plumbing permit is issued to connect the building or structure to the City Wastewater System. The Capacity Charge for industrial and commercial property set forth above shall be paid at the time an encroachment permit is issued for the connection. The Council may, by resolutions adopted from time to time, establish conditions under which a Capacity Charge may be spread over time and paid in installments.

SECTION 3. Section 2 of Resolution No. 93-265 is hereby amended and restated as follows:

SCHEDULE OF CHARGES
FOR CONNECTION TO CITY WASTEWATER SYSTEM

MMC Reference	Name of Charge and Itemization	Charge
5-6.802	Subtrunk Extension Charge:	
	Residential & Commercial	$645.00 per gross acre

The acreage used to determine wastewater subtrunk connection fees shall be as follows:

The acreage used to determine the wastewater subtrunk fee shall be the total area developed or being developed which is owned, leased or controlled by the user.

In those instances where the total acreage owned, leased or controlled by the user is greater than that developed, the Director is authorized to determine the acreage to be used in determining the subtrunk extension charge. The remaining acreage shall pay a subtrunk extension charge at such time as that acreage is developed.

Notwithstanding anything to the contrary contained in Chapter 6 of Title V of the M.M.C. and this resolution, the Council shall have the power to determine, by agreement, the total acreage developed or being developed which is owned, leased or controlled by a user meeting the criteria set forth below:

(1) The user will establish a new industry or expand an existing industry within the Modesto Municipal Sewer District that results in more than 225 (two hundred twenty-five) new, permanent, on-site, full-time employees; and

(2) The user will construct a new industrial building or building addition with total floor space in excess of one hundred seventy-five thousand (175,000) square feet with total project costs in excess of twenty million dollars ($20,000,000).

If the property is later developed beyond that development approved by the Council, the developer shall pay a wastewater subtrunk charge on the additional acreage developed, including any portion of the property that has already been developed but, for whatever reason, has not been included in the calculation of wastewater subtrunk redemption charges. If the user fails to meet either of the criteria after development, the agreement shall be void and a wastewater subtrunk charge shall be paid based on the total acreage developed or being developed had the above criteria not been applied.

SECTION 4. Policies affecting applicable wastewater Capacity Charges in various circumstances:

1. Commercial and Industrial Capacity Charges shall be based solely upon estimated or actual wastewater Flow, Strength and Solids Content.

2. The Director shall develop a schedule of estimated Flow, Strength and Solids Content for new or modified connections.

3. The Director shall also develop a schedule of estimated or actual Flow, Strength and Solids Content for any proposed changes in use, building or structure footprint, size of a parcel, or partial development of a larger parcel which, in the reasonable discretion of the Director, could result in a net change in wastewater Flow, Strength and/or Solids Content.

4. Where use or size changes or partial development result in an estimated net change in estimated or actual Flow, Strength and Solids Content, the Capacity Charge shall be calculated using the appropriate EDU or Unit Costs for that net change.

5. When the remainder of a partially developed parcel is improved, the Capacity Charge for the improved portion of the parcel shall be calculated based upon estimated Flow, Strength and Solids Content.

6. The Director shall review the actual water use for each commercial and industrial account approximately 12 months post-connection to verify the original Flow estimate.

7. The Director may review the Flow, Strength and Solids Content of commercial and industrial accounts approximately 12 months post-connection to verify the original estimates.

8. If any of the above post-connection reviews reveals a variance of at least plus or minus 10% from the estimated Capacity Charge components, additional Capacity Charges or refund of the variance shall result based on the entire variance.

9. Where the bond redemption charge has been paid for an entire parcel which is not completely developed, the Capacity Charge for the undeveloped portion shall be calculated based on the estimated Flow, Strength and Solids Content expected from the land to be developed, and reduced by the part of the previously paid bond redemption charge proportional to the previously undeveloped area of the entire parcel.

10. If a parcel contains more than one use, the Capacity Charge shall be based on the sum of the estimated Flow, Strength and Solids Content from each expected use. In cases where the specific future use is not known, the Director shall develop a composite estimated Flow, Strength and Solids Content based on similar type developments.

SECTION 5. Inflator Index: The Capacity Charge components set forth above shall be re-examined every two years by engineers, consultants, and professionals competent in their field. Such engineers, consultants and professionals shall provide a report to the City updating Flow, Strength and Solids Content Unit Costs, as appropriate, and as recommended to the Council by the Finance Director and the Director. After June 30, 2008, the Director shall have the authority, on an annual basis, effective July 1 of each year, to adjust Flow, Strength and/or Solids Content based costs by an amount not to exceed the annual percentage increase reported in the month of April in the Construction Cost Index found in the Engineering News Record for the San Francisco region.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-288

A RESOLUTION APPROVING AMENDMENT NO. 2 TO AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND IMPACT SCIENCES INC. FOR PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED PELANDALE/MCHENRY SPECIFIC PLAN PROJECT IN AN AMOUNT NOT TO EXCEED $30,030 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 2

WHEREAS, Michael P. Evans of Meritage Homes has applied for a specific plan, commonly known as the Pelandale/McHenry Specific Plan, to allow for the orderly and future development within the approximate 80-acre planning area bounded by Pelandale Avenue on the north, McHenry Avenue on the east and the Modesto City Limits on the south and west generally located in north Modesto, and

WHEREAS, the proposed Pelandale/McHenry Specific Plan will also involve the following associated entitlements: prezoning to a Specific Plan-Overlay (SP-O) zone, annexation of the project site; a general plan amendment to 1) modify the land use development densities, and 2) modify the land use designations and boundaries by changing the general plan land use designation of 30 acres of Regional Commercial (RC) and 50 acres of Residential (R) to 4.0 acres Commercial (C), 51 acres of Residential (R) and 26.5 acres of Open Space for an 80-acre site located at the southwest corner of the Pelandale and McHenry Avenues, preparation of a Facilities Master Plan and associated Finance Plan, and formation of a community facilities district (CFD) (collectively "Project"), and

WHEREAS, Section 21080.1 of the California Public Resources Code requires the City of Modesto, as lead agency, to make a determination of whether an environmental impact report is required for the Project, and

WHEREAS, On October 11, 2005, by Resolution No. 2005-503, the City Council approved an Agreement with Impact Sciences Inc. to prepare an Initial Study in accordance with Section 15063 of the CEQA Guidelines for the proposed Pelandale/ McHenry Specific Plan project and related applications, and

WHEREAS, on May 23, 2006, by Resolution No. 2006-300, the City Council approved Amendment No. 1 to the Agreement For Consultant Services between the City of Modesto and Impact Sciences Inc. for the preparation of an Environmental Impact Report for the proposed Pelandale/McHenry Specific Plan, in an amount not to exceed $235,372, a copy which is on file in the City Clerk's Office, and

WHEREAS, City staff recommends that the Agreement between the City of Modesto and Impact Sciences Inc. be further amended to provide for additional analysis and services related to preparation of the Draft EIR, in an amount not to exceed $30,030, and

WHEREAS, the applicant has agreed to pay for this additional work, including staff time spent on the project, and the applicant has deposited funds with the City to cover the full amount of the proposed Amendment No. 2 to Agreement for Consultant Services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 2 to the Agreement For Consultant Services ("Amendment No. 2") between the City of Modesto and Impact Sciences Inc., for additional services required for the completion of the Draft Environmental Impact Report for the proposed Pelandale/McHenry Specific Plan, in an amount not to exceed $30,030. A copy of Amendment No. 2 is on file with the City Clerk's Office.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment No. 2 to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-289

Print

A RESOLUTION REJECTING ALL BIDS, DUE TO BIDS EXCEEDING THE ANNUAL BUDGETED AMOUNT OF $20,000, FOR THE REPAINTING OF STREET LIGHT STANDARDS, BASES, AND MAST ARMS, FOR THE PUBLIC WORKS DEPARTMENT, TRAFFIC DIVISION.

WHEREAS, the Public Works Department, Traffic Division had request the repainting of street light standards, bases, and mast arms, and

WHEREAS, the City Electrical Unit currently maintains approximated 1,500 painted street light standards, and

WHEREAS, each year $20,000 is budgeted for repainting of street light standards, bases, and mast arms, and

WHEREAS, this routine maintenance is required to treat the faded paint and to maintain the integrity of the light standards, and

WHEREAS, the goal is to eventually replace all painted standard with newer galvanized steel standards, which will eliminate painting a majority of the existing street light standards over time, and

WHEREAS, until such time, the Traffic Division will explore both internal and external options for the repainting services to fit the available funding, and

WHEREAS, on December 12, 2006, Council approved Resolution No. 2006-773 authorizing the Purchasing Manger to issue formal Request for Bids (RFB) for the purchase of repainting of street light standards, bases, and mast arms, for the Public Works Department-Traffic Division, and

WHEREAS, on February 6, 2007, the Purchasing Division issue Request for Bid 0607-32 for the purchase of the repainting of street light standards, bases, and mast arms to twenty-one

(21) prospective bidders, seven (7) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on March 13, 2007 RFB's were formally opened in the City Clerk's office, and

WHEREAS, of the twenty-one (21) prospective bidders, seven (7) companies chose to respond, and

WHEREAS, RFB language requires bidder to sign Exhibit "A" and "B" of their bid submittal, thereby acknowledging, that they are in full compliance with all requirements and addendum to such bid, and the failure to comply shall result in diqualication, and

WHEREAS, two (2) companies did not include the Bid Acknowledgement, Exhibit A, with their bid submittal, and therefore their bids were deemed to be non responsive, and

WHEREAS, the company's bids were disqualified and received no considerations, and

WHEREAS, the RFB required two (2) signed original bid submittals, and

WHEREAS, failure to furnish two (2) "inked "signed original bid documents will result in disqualification, and

WHEREAS, based on responsive and responsible bids received being over the departments budgeted amount of $20,000, City staff recommends that all bids be rejected for the repainting of street light standards, base, and mast arms, and

WHEREAS, the Purchasing Division has worked with the Public Works Department-Traffic Division staff to review and evaluate bids received for the repainting of street light standards, bases, and mast arms, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases which meet or exceed $50,000 for materials, equipment or contractual services to be formally

bid, and

WHEREAS, the issuance of a formal Request for Bid for the purchase of the repainting of street light standards, bases, and mast arms conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the rejection of all bids for the repainting of street light standards, bases, and mast arms,

BE IT FURTHER RESOLVED that the Purchasing Division and the Public Works Department-Traffic Division will explore internal and external options for the repainting of street light standards, bases, and mast arms to fit the available funding. Options may include use of temporary labor services or obtaining additional funding through the budget process to contract for the repainting of street light standards, bases, and mast arms.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-290

Print

A RESOLUTION AUTHORIZING THE PURCHASE OF ONE (1) NEW CATERPILLAR 420E BACKHOE/LOADER BY "ACCESSING THE TERMS" OF A COMPETITIVELY BID CONTRACT THROUGH HOLT OF CALIFORNIA OF STOCKTON, CALIFORNIA FOR A TOTAL ESTIMATED COST OF $83,305.00.

WHEREAS, the Public Works Department, Fleet Services Division has requested the purchase of a new, current year/model, backhoe/loader, and

WHEREAS, the new backhoe/loader will replace the current backhoe/loader at the Secondary Treatment Plant (STP), and

WHEREAS, the current loader is being replaced because it is a two-wheel drive unit and no longer meets the needs of the STP, and

WHEREAS, Resolution No. 2007-361 authorized the Purchasing Manager to solicit bids for the purchase of additional vehicles and equipment at the STP, and

WHEREAS, the Purchasing Division working in conjunction with the Public Works Department, Fleet Service staff was able to identify a competitive bid contract made by the Modesto Irrigation District (MID) with Holt of California of Stockton, California for a new Caterpillar 420E backhoe/loader, and

WHEREAS, Holt of California has extended the same base pricing for said Caterpillar 420E backhoe/loader to other government agencies as quoted to the MID, except for upgrades, and

WHEREAS, the City of Modesto may purchase said backhoe/loader by "accessing the terms" through the MID competitively bid contract with Holt of California, of Stockton California, and

WHEREAS, the total estimated cost for the one (1) new, current year/model, Caterpillar 420E backhoe/loader is $83,305.00, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 requires all purchases which meet or exceed $50,000 for material and equipment or contractual services to be formally bid, and

WHEREAS, Pursuant to MMC Section 8-3.204(d) the Purchasing Manager may determine that a process other than the formal bid process set forth in Section 8-3.203 will result in procurements for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, by "accessing the terms" of the MID contract, the purchase of this equipment will conform to MMC Section 8-3.204(d), and

WHEREAS, the City Council has appropriated funds in the following accounts: 7210-480-5814-5745 (Fleet Equipment, Replacement),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of a new Caterpillar 420E backhoe/loader by "accessing the terms" of a competitively bid contract with Holt of California of Stockton, California for a total estimated cost of $83,305.00.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a purchase order to Holt of California of Stockton, California for the estimated amount of $83, 305.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-291

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO PURCHASE ORACLE LICENSES AND MAINTENANCE RENEWAL FOR THE INFORMATION TECHNOLOGY DEPARTMENT, BY ACCESSING THE TERMS OF A COMPETIVELY BID CONTRACT FROM THE COUNTY OF LOS ANGELES, CONTRACT NO. 41974/OLSA-1017086-15-APR-2003, TO ORACLE USA, INC., FOR AN ANNUAL COST OF $135,160 AND A TOTAL ESTIMATED COST OF $675,800 OVER THE TERM OF THE 5-YEAR LEASE

WHEREAS, the Information Technology Department (IT), purchases annual maintenance agreements on most of its software applications for the purpose of receiving technical support and to keep current with software releases, and

WHEREAS, the City of Modesto utilizes the Oracle database platform to house and maintain a majority of its mission critical and non-mission critical applications and data, and

WHEREAS, over the last several years, the demand for new and upgraded system applications, technological hardware advances, and an increase in use, has extended the use of the Oracle database platform, and

WHEREAS, the Information Technology department has conducted an internal audit of its use and has discovered the need for additional licensing, and

WHEREAS, as applications and system use expands, it is essential that technology be utilized to maintain and support these applications and backend systems, and

WHEREAS, the Modesto Municipal Code, MMC 8-3.203, generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, there are exceptions to the rule set forth in the Modesto Municipal Code, and

WHEREAS, one exception, MMC 8-3.204 (d), is available where the Purchasing Manager, in his or her discretion, determines that a process other than the usual formal bid procedure set forth in Section MMC 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase, and

WHEREAS, the County of Los Angeles went through a competitive bid process for the purchase of Oracle licensing and software maintenance support to the lowest responsive and responsible bidder, which was Oracle Corporation., and

WHEREAS, by "accessing the terms" County of Los Angeles master agreement would be an efficient and effective way to purchase Oracle licenses and software maintenance support, thereby saving City time and expense to formally solicit Request for Bids, and

WHEREAS, this purchase will conform to MMC 8-3.204 (d).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a Purchase Order to Oracle USA, Inc., for the purchase of Oracle licenses and maintenance renewal for an annual cost of $135,160 and a total estimated cost of $675,800 over the term of the 5-year lease.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd, day of May, 2007 by Councilmember Hawn, who

moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Dn for
JEAN MORRIS, CITY CLERK

APPROVED AS TO FORM:

By: SA Wood
SUSANA ALCALA WOOD, CITY ATTORNEY

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-292

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF CISCO SMARTNET HARDWARE MAINTENANCE FOR THE INFORMATION TECHNOLOGY DEPARTMENT FOR A TERM OF THREE (3) YEARS, AT AN ESTIMATED ANNUAL COST OF $46,483. THE TOTAL AMOUNT OF THE AGREEMENT OVER THREE (3) YEARS IS ESTIMATED AT $134,491.

WHEREAS, In 2004, the city standardized its networking equipment on Cisco Systems, Inc. switching and routing products, and

WHEREAS, the maintenance of this networking equipment is critical to maintaining network continuity, system uptime and optimization, and

WHEREAS, a 3-year term agreement will protect the city from service cost increases within the 3 year contracted date.

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The issuance of a formal Request for Bid for the purchase Cisco SMARTnet Hardware maintenance conforms to the Modesto Municipal code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal Request for Proposals (RFP) for the purchase of Cisco SMARTnet Hardware maintenance for the Information Technology Department for a term of three (3) years, at an estimated annual cost of $46,483. The total amount of the agreement over three (3) years is estimated at $139,449.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd, day of May, 2007, by Councilmember, Hawn, who moved its adoption, which motion being duly seconded by Councilmember, Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-293

A RESOLUTION APPROVING A REQUEST FROM BANDCREATOR.COM FOR AMPLIFIED MUSIC AT MANCINI BOWL FOR A "VALLEY ROCKS CALI-SUPPORT YOUR LOCAL MUSICIANS TOUR" EVENT, TO BE HELD ON JULY 7, 2007, FROM 2:00 TO 6:00 P.M.

WHEREAS, the Parks, Recreation and Neighborhoods Department received a request from BandCreator.com for amplified music at Mancini Bowl for a "Valley Rocks Cali-Support Your Local Musicians Tour" event, to be held on July 7, 2007, from 2:00 to 6:00 p.m., and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from BandCreator.com for amplified music at Mancini Bowl for a "Valley Rocks Cali-Support Your Local Musicians Tour" event, to be held on July 7, 2007, from 2:00 to 6:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-294

A RESOLUTION APPROVING A REQUEST FROM JESUSISLORD.COM FOR AMPLIFIED MUSIC AT MANCINI BOWL FOR A "WEST COAST YOUTH EXPLOSION" EVENT TO BE HELD ON JUNE 2, 2007, FROM 4:00 TO 7:00 P.M.

WHEREAS, the Parks, Recreation and Neighborhoods Department received a request from JesusIsLord.com for amplified music at Mancini Bowl for a "West Coast Youth Explosion" event to be held on June 2, 2007, from 4:00 to 7:00 p.m., and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from JesusIsLord.com for amplified music at Mancini Bowl for a "West Coast Youth Explosion" event to be held on June 2, 2007, from 4:00 to 7:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-295

A RESOLUTION APPROVING CITY'S RESPONSE TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) AUDIT FOR HUD ENTITLEMENT FUND PROGRAMS ADMINISTERED BY THE PARKS RECREATION AND NEIGHBORHOODS DEPARTMENT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT THE RESPONSE TO HUD.

WHEREAS, HUD funded programs administered by the Parks, Recreation and Neighborhoods Department (PRND) were scheduled to be audited by the City's Internal Auditor in the Fall of 2001, and

WHEREAS, at that time, administration of the HUD funded programs had recently shifted from the Community Economic and Development Department to the Parks, Recreation and Neighborhoods Department's Recreation and Neighborhood Services Division, and

WHEREAS, since all components of program administration and staffing were new, the Internal Auditor delayed the audit giving newly assigned staff time to complete the transition, and

WHEREAS, in 2002, a potential conflict of interest arose for the City's Internal Auditor; consequently he withdrew from the engagement to avoid the appearance of any conflict, and

WHEREAS, in 2004, the City's Internal Auditor proposed to find another source for the audit, and

WHEREAS, at an audit training seminar, the City's Internal Auditor presented the conflict to a group of auditors that included a representative of the HUD Office of Inspector General (OIG), and

WHEREAS, the OIG auditor volunteered to conduct the audit at no fee to the City, and

WHEREAS, the audit was subsequently conducted by the HUD OIG from November 2005 through April 2006, and

WHEREAS, the HUD OIG audit process included an initial survey of files, programs and policies, followed by an in-depth file review and then on-site inspections of approximately 40 homes that had rehabilitation work funded by HUD programs, and

WHEREAS, representatives of the OIG also reviewed all HUD Entitlement Programs, including the Community Development Block Grant Program, the HOME Investment Partnership Program, the Emergency Shelter Grant Program and the American Dream Down-payment Assistance Program for a period of approximately 10 years, with focus on housing rehabilitation program in years of 2000-2006, and

WHEREAS, the auditors also reviewed City Purchasing Policy, personnel job descriptions and financial management of the entitlement programs, and

WHEREAS, City employees, community partners, general contractors, program participants, representatives of local agencies and representatives of the Region IX HUD Community Planning and Development Office were interviewed, and

WHEREAS, in July 2006, the OIG issued a "Use Restricted Draft Audit Report", and

WHEREAS, the report outlined the audit findings and recommendations that OIG representatives had proposed for a final audit report, and

WHEREAS, in August 2006, the City reviewed the Draft Audit Report and offered a comprehensive response to and rebuttal of the proposed audit findings and recommendations listed in the draft report, and

WHEREAS, the OIG took the City's response into consideration and did make minor adjustments to the final report, and

WHEREAS, in August 2006, the OIG's final report was completed and sent to the Department of Housing and Urban Development (HUD) and listed two (2) audit findings and six (6) recommendations, and

WHEREAS, the OIG also suggested that the City pay back $68,379 in CDBG Funds, and

WHEREAS, per HUD's request, in March 2006, the City wired $3,441 to HUD to repay funds extended to a client who defrauded the City, and

WHEREAS, HUD reviewed the OIG Final Audit Report and has given the City direction in response to the OIG's report and recommendations, and

WHEREAS, a copy of the City's response, updated policies and procedures and verification results of re-inspections are **attached hereto** and incorporated herein by reference, and

WHEREAS, most of the recommendations entail updating policy relating to estimating, bidding and contractor outreach, and

WHEREAS, initially, the OIG stated the City's estimates were high on 12 rehabilitation projects and were not consistent with local market conditions and

WHEREAS, the City engaged an independent architect to review four of the 12 files questioned by the OIG, and

WHEREAS the four files represented over 50% of the funds in question and the independent architect found that three of the clients received fair estimates and that one received an estimate and ultimately rehabilitation work at an amount lower than market rate, and therefore the OIG claim was not warranted, and

WHEREAS, the final OIG audit report changed the finding slightly to indicate that 12 program recipients had not received products specified in the work write-ups, and clients were overcharged for products not received in a total amount of $64,938, and

WHEREAS, HUD directed the City to have an independent and qualified inspector, outside of City staff, administering the HUD programs, to re-inspect the identified 12 homes, and

WHEREAS, City Building Inspectors re-inspected the 12 homes in question and found the City may have overcharged one client up to $32.67 for a grab bar specified, but not installed, and

WHEREAS, City Building Inspectors also found other minor variations from the specification; but all other variations favored the program recipient, and

WHEREAS, the City will submit a response to HUD's report and direction indicating that $32.67 in CDBG funding will be repaid, in addition to the $3,441 in funds already wired in March, and

WHEREAS, the total of $3,474 in funds that will be repaid to HUD represent .01% of the CDBG funds the City received from HUD in the ten program years audited, and

WHEREAS, while the City does not agree with the findings of the OIG, the audit and subsequent audit report have resulted in fine tuning of policies, procedures and operations of the City's HUD Programs including the following:

1. HUD Rehabilitation Program Bids are now posted on the Internet using the City's Planet Bid program;
2. The HUD Programs Contractor List has added new contractors to the program through quarterly outreach efforts;
3. HUD Rehabilitation Programs now use industry standard estimating tools crafted especially for single family home rehabilitation projects. The City has conducted an estimating workshop to educate contractors and other interested parties in the HUD Programs procedure for estimating;
4. The Parks Recreation and Neighborhoods Department's Recreation and Neighborhood Services Division is now evaluating the possible use of rehabilitation program software to produce cost estimates, determine income eligibility and to format program documentation; and
5. Work write-ups and bid specifications now have accompanying drawings to clarify any potentially ambiguous narrative in specifications.

and,

WHEREAS, the Audit Committee met on April 30, 2007, and supported staff's proposed response to HUD,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves City's response to the Department of Housing and Urban Development (HUD) Audit for HUD Entitlement Fund programs administered by the Parks Recreation and Neighborhoods, a copy of which is **attached hereto** and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to submit the response to HUD.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

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April 25, 2007

Steven B. Sachs, Director
Community Planning and Development Division
U.S. Department of Housing and Urban Development
San Francisco Regional Office – Region IX
600 Harrison Street
San Francisco, California 94107-1387

Subject: Office of Inspector General (OIG) Audit Report
Audit Report Number: 2006-LA-1019
Response to Corrective Actions Requested by HUD

Dear Mr. Sachs:

The City has now received two transmittals from the Region IX HUD Office regarding corrective actions required to close cited findings in OIG Audit Report Number 2006-LA-1019; the first was received January 22, 2007 and the latter received February 27, 2007. The City offered a preliminary response to the transmittals to HUD in a letter dated March 22, 2007; and now offers this document and attachments as the final response.

Process for Response

August 25, 1975, the Modesto City Council adopted Resolution Number 75-866, delegating the authority to administer Community Development Block Grant funds to citizens advisory committees. The citizens advisory committees assigned to review CDBG programs and housing rehabilitation programs subsidized by HUD Entitlement funding are the Housing and Community Development Committee and the Housing Rehabilitation Loan Committee. To ensure a full public process the City provided reports to the following committees:

The City presented status reports to:
1. Citizens Housing & Community Development Committee; and
2. Housing Rehabilitation Loan Committee;

The City presented formal responses to:
3. City Council Audit Sub-Committee; and
4. The Modesto City Council

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In a preliminary response dated March 6, 2007, the City requested that the deadlines for responding to the following corrective actions be extended:

- Corrective Action for Recommendation 1A – Extended to May 30, 2007
- Corrective Action for Recommendation 1B – Extended to May 30, 2007
- Corrective Action for Recommendation 1D – Extended to May 30, 2007
- Corrective Action for Recommendation 2A – Extended to May 30, 2007

RESPONSE

The City of Modesto has addressed all OIG recommendations, including the steps that were implemented before the completion of the audit, and included in the City's audit response report.

In the Region IX HUD Office's transmittals to the City of Modesto, it was stated that the following corrective actions must be taken to clear Findings and Recommendations listed in the OIG Audit Report:

OIG Finding 1: The City Did Not Properly Administer and Procure Rehabilitation Work, Resulting in Loan Recipients Being Overcharged at Least $64,938.

OIG Recommendation 1A: Comply with HUD procurement requirements in 24 CFR 85.36 and its own policy and procedures manual by ensuring that work write-up forms and clearly written, procurement records are maintained, awards are made to the lowest priced responsible bidder, two or more responsible bids are received to avoid sole-source contracts, and procurements are publicly advertised and bids solicited from an adequate number of contractors.

HUD Required Corrective Action: *Develop improved housing rehabilitation policies and procedures that require more detailed work write-ups. The procurement procedures should be changed to retain procurement records for a minimum of four years, consistent with CDBG requirements. Additionally, the City must develop improved outreach procedures to increase the number of contractors bidding on projects. Finally, train rehabilitation staff on these new policies and procedures.*

*To document these corrective actions, please submit written policies and procedures evidencing these actions and submit written policies and procedures evidencing these actions and provide a certification that staff has been trained on these new policies and procedures. Please complete these items by March 30, 2007.**

** Extension requested to May 30, 2007*

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Modesto has drafted the following updated policy in the Community Development Policies and Procedures Manual:

- **Chapter 6 – Policies for Bidding on Rehabilitation Projects**

The City has updated Chapter 6 of the Community Development Policies and Procedures Manual. The updated policy is attached.

Additionally, the City has drafted new procedures for the following Housing Rehabilitation Programs processes:

- **Creating work write-ups**
- **Cost estimating**
- **Outreach Procedure**

The updated procedures are attached

Policies and Procedures are consistent with 24 CFR 85.36 as well as pertinent City of Modesto regulatory requirements.

The City certifies that employees assigned to administration duties of the rehabilitation program have received internal training on updated policies and procedures. Please note that the City has also implemented the following practices:

Work Write-Ups

1. Work write-ups are now accompanied by plans offering visual clarifications.
2. Work write-ups must now be approved by the Senior Rehabilitation Specialist and the HUD Programs Manager.
3. Housing rehabilitation personnel have been trained in these new practices.

Cost Estimates

During the course of the audit, the City implemented an administrative practice of documenting independent estimating tools by RS Means, a company that auditors stated would be appropriate. The City is now evaluating estimating software that will use an industry standard, in addition to developing a database documenting local market cost deviations.

The City certifies that employees assigned to generate cost-estimates have been internally trained. Additionally, the City has conducted a

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training workshop for local contractors on the estimating procedure used for HUD funded rehabilitation programs administered by the City.

Outreach

The City has already taken steps to extend bid outreach by enrolling in the Planet Bid on-line bidding process, establishing an outreach committee and contacting all contractors on the pre-qualified list to determine if they continue to be interested in remaining on the list. The on-line bidding process was implemented and operational on April 3, 2006, during the course of the audit.

The City has also conducted outreach to contractors, specifically in the "cost estimating processes." On March 16, 2007, Modesto hosted an estimating workshop for local contractors. The workshop detailed the process that the Housing Rehabilitation Specialists follow to generate estimates. Five contractors attended the workshop as well as two representatives from the local Housing Authority.

Following is a list of contractor outreach activities conducted by the City since the beginning of the OIG audit:

Housing Rehabilitation Program Outreach	
12/12/2005	Open House
12/15/2005	Tour of housing rehabilitation area-Modesto Junior College
1/1/2006	Advertisement in City Activity Guide
1/4/2006	Meeting with Senior providers
2/1/2006	Meeting with Senior providers
3/10/2006	Annual Safe Banking Seminar for Seniors
4/5/2006	Meeting with Senior providers
4/8/2006	Cesar Chavez Day event participation
4/18/2006	Tour of housing rehabilitation area-Modesto Junior College
4/18/2006	Mailing to three non-profits on housing rehabilitation referrals
4/19/2006	Mailing to Highway Village residents
4/22/2006	Earth Day event participation
5/1/2006	Advertisement in City Activity Guide
5/1/2006	Advertisement in City Utility insert
5/3/2006	Mailing to Airport Neighborhood residents
5/11/2006	Meeting with Society for the Handicapped, Advancing Vibrant Comm.
6/1/2006	Mature Adults Housing Seminar

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6/1/2006	Advertisement in City Utility insert
9/1/2006	Newspaper advertisement for Contractors
9/15/2006	Advertisement in City Activity Guide
10/13/2006	Healthy Aging Summit
10/20/2006	Presentation to parents at Orville Wright School
12/13/2006	Open House
1/19/2007	Community Housing Development Organization meeting
1/25/2007	Senior Housing Alternatives Seminar
3/1/2007	Advertisement in City Utility insert for Contractors
3/8/2007	Meeting with Senior providers
3/15/2007	Contractors Estimating Workshop
3/16/2007	Annual Safe Banking Seminar for Seniors
4/9/2007	Tour of housing rehabilitation area-Modesto Junior College
Ongoing	Building Inspection distribution "Calling all Contractors" to contractors

OIG Recommendation 1B: Design and implement appropriate quality control systems to ensure that City Staff properly monitors contractor charges and document rehabilitation progress and work quality, including conducting and documenting site visits to evaluate the progress and quality of the rehabilitation work performed by the contractors.

HUD Required Corrective Action: *The City must develop policies and procedures to Implement Quality Control Systems that Monitor Contractor charges, including conducting and documenting site visits to evaluate the progress and quality of the rehabilitation work completed. After these policies and procedures have been completed, train rehabilitation staff on these new policies and procedures.*

*As with Recommendation 1A, to document these corrective actions, please submit written policies and procedures and a certification indicating that staff has been trained on these items. Please complete these items by March 30, 2007.**

** Extension requested to May 30, 2007*

The City has drafted the following updated policy in the Community Development Policies and Procedures Manual:

- **Chapter 9 - Policies for Work Monitoring, Quality Standards, Grievances, Collections, Foreclosures and Appeals.**

Additionally, the City has drafted the following new procedures:

- **Outreach for Housing Rehabilitation Programs**
- **Housing Rehabilitation Program Monitoring Procedures**

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Copies of the policies and procedures are attached. The City certifies that employees assigned to administer HUD funded housing rehabilitation programs have received internal training on the new policies and procedures.

OIG Recommendation 1C : Immediately reduce loan amounts by at least $64,938, plus interest, for the loan recipients listed in Appendix D who were charged unreasonable and unnecessary amounts for rehabilitation work. If loan amounts are not reduced for the individual loan recipients, the City must provide documentation supporting the original contract charges. Additionally, all overcharges agreed to must be refunded back to the City's block grant account from nonfederal funds.

HUD Required Corrective Action: *In response to the draft audit, the City hired an independent architect to review the costs charged for the 12 rehabilitation loans identified in the audit. While the City believed the architect's review supported the costs charged, we could not fully accept these reviews, in part, because physical inspections of the properties were not conducted to ensure that the items specified were installed. In recent discussions with the OIG, they indicated that some items specified in work write-ups were not actually installed in some of the homes. The result was that items costing less were installed but were charged the original higher contract price. The architect's review could only confirm costs of the items specified but not necessarily of the items installed and work completed.*

To resolve this issue, the City must conduct site visits for the 12 properties identified in the audit. Each site visit must verify that the items specified in the work write-up/rehabilitation contracts were completed and that items specified were installed. The work performed and items actually installed should be analyzed to determine that the costs of the work completed were installed and are appropriate for the amount charged. Discrepancies on work performed and costs charged should be noted and documented and the costs adjusted. Therefore, if applicable, actions should be taken to reduce the loans, pay back the City's CDBG program, or support and document the costs charged.

Please note the Recommendation does not require that the City hire an outside contractor to complete the inspections. If City employees are used, we suggest that staff with sufficient construction experience that do not work directly on the HUD-funded programs be used. This will mitigate the appearance of a conflict of interest. Please complete these actions by June 30, 2007.

The City of Modesto has complied with this required action, but would ask that **HUD note that the interpretation of this recommendation and grounds for the related finding appear to have changed since the OIG Audit exit interview and subsequent publication of OIG Audit Report Number 2006-LA-1019.**

Of concern to the City is the apparent suggestion that items specified were not the items installed, and further that inferior items were installed at an inappropriate cost. The City of Modesto appreciates this clarification made by the Region IX HUD Office, as it was never stated

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by representatives of the OIG or made apparent in OIG Audit Report Number 2006-LA-1019.

On the four properties already reviewed by an independent appraiser, the City does stand by the independent appraiser's findings.

In compliance with HUD's direction, the City attempted to contact the owners of the 12 units required by HUD with the following results:

- 9 property owners allowed re-inspections
- 1 owner refused inspection and stated that she was pleased with the rehabilitation work completed
- 1 owner initially scheduled an in section, but cancelled due to serious illness. This owner has since scheduled and cancelled again and has stated that she does not know when she will be well enough to reschedule an inspection – but for the time being is not allowing an inspection.
- One property was sold. The City has made numerous attempts to contact the new owner without success. Proof of change of ownership is attached.

Two qualified City Building Inspectors visited the 9 out of the 12 properties identified in the audit, in order to verify that items specified in the work write-ups/rehabilitation contracts and associated change orders were completed and that items specified were installed.

Attached to this report is are the list of items specified and the Inspectors verification.

Modesto's Senior Rehabilitation Specialist and Rehabilitation Specialist II are new to the City and were not employed by the City during the time rehabilitation work was completed or during the course of the audit. The housing rehabilitation program specialists evaluated any deviation from items specified in file work-write ups and conducted an impact analysis. The rehabilitation specialists generated cost estimates for any product or installation that varied from the work-write up in any way, to determine if any participant incurred financial loss or overcharge. The City certifies that cost estimates were conducted using an industry standardized tool, an RS Means estimating book, with any deviations documented through sources such as the Lowes' or Home Depot websites, as these businesses are located in Modesto (the websites both offer zip code specific product pricing information). Additionally, the rehabilitation specialist clarified any items that may have been changed from the original specification due to change order or documented client request.

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Using the results of inspections conducted by the Building Inspector and the cost estimating impact analysis conducted, the City determined that one client did incur financial harm of $32.67. The City requests that HUD determine if this amount should be refunded to the client, adjusted in the client's loan or if the City should offer to correct the oversight of installing a grab bar.

A summary of the inspections and analysis is attached to this report. Please note that there were other minor deviations, but all others actually benefited the client.

Recommendation 1D: Change its policy of requiring loan recipients to select only contractors from the City's approved bidders list and allow them the option to seek out their own licensed and bonded contractors to perform the work.

HUD Required Corrective Actions: *The City must include in their CDBG Housing Rehabilitation loan policy that loan recipients have the option to seek out their own licensed and bonded contractors to perform the rehabilitation work. Staff should be trained on this new policy. Please submit a copy of the revised procedures and certify that the training has been done. Please complete this item by May 15, 2007.**

** Extension requested to May 30, 2007*

It has always been the intent and practice in housing rehabilitation programs, administered by the City of Modesto, to give loan recipients the option to seek out their own licensed and bonded contractors to perform rehabilitation work. The City has drafted the following updated policy in the Community Development Policies and Procedures Manual:

- **Chapter 6 – Policies for Bidding on Rehabilitation Projects**

The policy has been updated specifically to clarify that loan recipients have the option to seek out their own contractors. The City certifies that employees assigned to administer HUD funded housing rehabilitation programs have received internal training on this policy.

Finding 2: The City Approved $3,441 in Ineligible Relocation Expenses

OIG Recommendation 2A: Comply with the underwriting requirements in its policies and procedures manual relating to verification of income and credit when determining the eligibility of all loan applicants before relocation expenses are incurred, such as the $3,441 identified in this report.

HUD Required Corrective Action: *The City must develop policies and procedures to improve the underwriting requirements and Improve Income and Credit Verification procedures. Staff must be trained on these new policies and procedures.*

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*To document these corrective actions, please submit written policies and procedures and a certification indicating that staff has been trained on these items. Please complete these items by March 30, 2007.**

** Extension requested to May 30, 2007*

The City has drafted the following updated policy in the Community Development Policies and Procedures Manual:

- **Chapter 7 – Policies for Loan Origination**

This policy is attached. The City certifies that HUD funded housing rehabilitation staff have received internal training on this policy.

The City has had difficulty in locating income eligibility training for CDBG Housing Rehabilitation Programs. Representatives from the Region IX HUD office were also unable to identify training, but did recommend seeking training similar to a Public Housing Authority's Section 8 Program, as many standards and processes are similar. The Stanislaus County Housing Authority has agreed to provide training to the City in income eligibility review and documentation by May 30, 2007.

HUD's consideration of the City's request for time extensions is greatly appreciated. Should additional information be needed, please contact Barbara Kauss, HUD Programs Manager, at (209) 577-5275.

Sincerely,

Julie Hannon
Deputy Director

cc: George Britton, City Manager
James E. Niskanen, Director, Parks Recreation and Neighborhoods Department
Barbara Kauss, HUD Programs Manager

PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT
Recreation & Neighborhood Services Division
Housing Rehabilitation Program

POLICIES FOR BIDDING
ON HOUSING REHABILITATION PROJECTS
Chapter 6

6.1 CONTRACTOR BID PROCESS GENERAL POLICIES

i. The solicitation, review, and analysis of bid proposals are part of the technical assistance provided to property owners who have requested assistance under any of the housing rehabilitation programs.

ii. The Policies for Bidding on Housing Rehabilitation Projects supports professional construction management standards on the part of bidders, and it recognizes the vital role played by private sector small businesses in assisting the City of Modesto in accomplishing its housing rehabilitation and neighborhood revitalization objective of preventing or eliminating blighted neighborhoods through rehabilitation. The Policies for Bidding on Housing Rehabilitation Projects promotes equal access for bidders, competitive pricing, reasonable profits, and increased opportunity for economic growth for small, minority, and female contractors.

iii. All policies and procedures for implementing the Bid Process shall be in compliance with the Code of Federal Regulations (24CFR 85.36), applicable OMB Circulars, HUD guidelines, rules, notices, regulations, and City of Modesto requirements.

iv. In support of the Policies for Bidding on Housing Rehabilitation Projects, the Department of Parks, Recreation and Neighborhoods, Recreation and Neighborhood Services Division will implement procedures to effectively carry out the Policies for Bidding on Housing Rehabilitation Projects.

v. The Policies for Bidding on Rehabilitation Projects shall only be amended by approval of the City Council. The Procedures for Bidding on Rehabilitation Projects may be amended with approval by the Parks, Recreation and Neighborhoods Department Director, or designee. The Procedures for Bidding on Rehabilitation Projects shall be amended by the Recreation and Neighborhood Services Division, as experience and practicality dictates, including, but not limited to, suggestions offered by city staff, program participants and participating bidders, potential bidders, and contractors.

vi. The supervisor of the housing rehabilitation program shall be responsible for implementing and enforcing the Policies for Bidding on Rehabilitation Projects, as well as the Procedures for Bidding on Rehabilitation Projects.

6.2 ELIGIBILITY FOR BIDDING ON HOUSING REHABILITATION PROJECTS

i. Any person, partnership, or corporation with a current California General Contractor's License is eligible to have bids considered in accordance with the Procedures for Bidding on a Housing Rehabilitation Project. In limited situations, specialty contractors may be directly invited to bid on projects as the Recreation and Neighborhood Services Division deems necessary.

ii. In accordance with 24CFR85.36(c)(4) the Recreation and Neighborhood Services Division shall encourage qualified contractor participation to ensure that enough bids are received for a successful and adequate solicitation. The Recreation and Neighborhood Services Division shall engage in continuous contractor outreach in order to provide for the maximum open and free competition that will not preclude other potential bidders from qualifying during the bid solicitation period.

iii. The contractor outreach will employ a broad range of activities designed to improve the Housing Rehabilitation Programs access to qualified contractors. Such activities may include: publishing a brochure, participating in trade fairs, presenting seminars or workshops for interested contractors, participating in local organizations which support contractors and various forms of public advertisement.

6.3 CONTRACTORS LIST

i. The Recreation and Neighborhood Services Division shall maintain a Contractors List. The list will contain Licensed General Contractors and Licensed Specialty Contractors.

ii. The Contractors list will be updated, at minimum, on a quarterly basis and more frequently if deemed necessary.

6.4 STANDARD PROJECT BID PROPOSALS

i. When soliciting bids for private property rehabilitation projects, the procurement by sealed bids (formal advertising) method, in accordance with 24CFR 85.36(d)(2) shall be used.

Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 85.36(d)(2)(i) apply.

In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;
(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and
(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

ii. The City's Recreation and Neighborhood Services Division will prepare a detailed work write-up and a detailed cost estimate for each housing rehabilitation project.

iii. Exceptions to the Standard Project Bid Proposal may occur when the property owner has been approved as an owner-builder or in cases of emergency as determined by the Director, or designee.

iv. The Invitation for bids shall be provided at no cost to the bidder or to the property owner. Property owners requesting a project to be re-bid may be charged the actual costs incurred for copies.

v. Invitation for bids may be amended, by Recreation and Neighborhood Services Division, at any time prior to the bid due date, by issuance of a written "Addendum To Bid." When addendums become necessary, all bidders who received a bid packet, shall be notified of the addendum.

6.5 ANNOUNCEMENT OF AVAILABLE BID PROPOSALS

i. Invitation for Bids will be publicly advertised and bids shall be solicited from an adequate number of known contractors. Invitation for bids will be posted on the City of Modesto web site. Posting may also be announced by one or more of the following methods: e-mail to bidders who have provided an e-mail address, direct mail, newspaper ad, and/or posting at the Recreation and Neighborhood Services Division front desk or any other public place deemed applicable.

ii. In cases of extreme emergencies i.e. conditions that are a threat to human life or situations that pose extreme hazardous conditions, the Director, or designee, may authorize other expedient methods for soliciting an adequate number of bidders to have the emergency work completed.

6.6 OBTAINING BID PROPOSALS

i. Bid Proposal Packets will be made available to the public.

ii. Bid Proposal Packets can be obtained from the City of Modesto web site or at the Recreation & Neighborhood Services Division, 1010 10th Street, Suite #4300, during business hours.

iii. Bid Proposal Packets may also be made available by one or more of the following methods: e-mail to bidders who have provided an e-mail address, or direct mail.

iv. All requests made by bidders for bid Proposals must be documented.

6.7 SUBMITTING BID PROPOSALS

i. The Recreation and Neighborhood Services Division shall require sealed bids for housing rehabilitation projects (24 CFR 85.36(d)(2)). Each bid shall be submitted to the Recreation and Neighborhood Services Division in a sealed envelope by the time and date specified in the invitation for bids.

6.8 OPENING OF SEALED BIDS

i. Pursuant to 24 CFR 85.36(d)(ii)(C) all bids will be publicly opened at the time and place prescribed in the invitation for bid.

ii. Bid opening is a public event, all bidders, contractors, and anyone from the general public is welcomed and encouraged to attend.

6.8 BID REVIEW AND VALIDATION

i. The Recreation and Neighborhoods division staff shall review each bid proposal to verify that it complies with all provisions of the bid procedure.

ii. Any deviations or exceptions to the bid validation procedure must be approved by the Director, or designee.

iii. Contractor bids that are more than 115% or less than 85% of the cost estimate will very likely fail to meet the cost criteria of the Recreation & Neighborhood Services Division. Exceptions between 115% -125% or between 75%-85% of the cost estimate may occur upon approval by the Director, or designee.

iv. Any or all bids may be rejected if there is a sound documented reason (24 CFR 85.36(d)(ii)(E))

6.9 AWARDING OF BIDS

i. Awarding bids for housing rehabilitation projects shall be in compliance with 24 CFR 85.36(d)(ii)(D).

ii. Pursuant to 24 CFR 85.36(b)(8) awarding of bids shall be made only to responsible contractors possessing the ability to perform successfully under the terms and conditions for the proposed project. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, availability of financial and technical resources.

iii. A property owner applying for financial assistance for housing rehabilitation through the City of Modesto, Department of Parks, Recreation and Neighborhoods Department is not required to accept the lowest bid submitted.

6.10 WITHDRAWAL OF BID BY BIDDER

i. Bids may be withdrawn by the submitter within three (3) business days after the bids were opened, without penalty. If a bidder withdraws the bid after the three-day period the bidder may be subject to an administrative penalty.

ii. A bidder who has withdrawn a bid shall be ineligible to re-bid the same project.

6 .11 ADMINISTRATIVE PENALTIES

i. Any bidder who violates the policies of the Housing Rehabilitation Programs specified in the Community Development Manual, may be subject to administrative penalties which could include suspension or expulsion from the Housing Rehabilitation Program.

6.12 ADMINISTRATIVE APPEALS

i. In accordance with 24CFR 85.36(b)(12) the City shall provide a process for bidders and contractors to present administrative appeals, as needed.

ii. Appeals shall be submitted in writing to the Recreation and Neighborhood Services Deputy Director.

PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT
Recreation & Neighborhood Services Division
Housing Rehabilitation Program

PROCEDURES FOR LOAN ORIGINATION
Chapter 7

7.1 REQUEST FOR ASSISTANCE

i. A property owner may request assistance by contacting the Recreation and Neighborhood Services Division. The Housing Financial Specialist, or designee, will screen the applicant to determine property eligibility, eligibility of requested repairs, and household income. The Housing Financial Specialist will prepare a loan application package, the inspection information form, a property detail report (for real property), and information on the applicant's request and deliver this to the Senior Housing Rehabilitation Specialist, or designee. The Senior Housing Rehabilitation Specialist will contact the property owner to set up an initial inspection that will verify repairs are needed. The Senior Housing Rehabilitation Specialist will deliver the loan application package to the property owner during the inspection appointment, if repairs are needed.

ii. The applicant must complete their loan application package. The loan application package will contain the application, required disclosures, and a checklist of required documents.

iii. Documents that may be requested, but not limited to, are: Federal Income Tax Returns with Schedules and W2's, 1099's, and other attachments, pay stubs, Social Security benefit statement, Unemployment benefit statement, Public Assistance benefit statement, bank statements, IRA statements, mortgage statements, loan or credit card statements, copies of mortgage Notes, copies of recent property appraisals, escrow settlement statements, property tax statements, fire insurance policy, etc

iv. The applicant contacts the Housing Financial Specialist for a confidential interview. The applicant can travel to the City's offices or the Housing Financial Specialist can travel to the applicant's home. During this interview, the required documents are collected, the application is reviewed, and the required disclosures are signed and obtained from the applicant.

v. During this interview, the applicable program is discussed and explained in detail to answer any questions the applicant might have. The financial and technical timeline and workflow is discussed, along with how the loan amount is determined. The Housing Financial Specialist must explain that the loan amount will be more than the contract amount because of contingency, permit costs, advance costs, loan fees, and title costs, etc.

7.2 Income and Asset Information

i. The methodology for underwriting the income will be listed on the underwriting sheet. Copies of benefit letters, Federal Tax Returns with Schedules and Attachments, pay stubs, or asset statements are placed in the file. If there is any deviation from income history and anticipated income for the household during the next 12 months, it must be explained on the underwriting sheet or on a memo to the file.

   a) If the applicant or household member receives social security, a Social Security benefit letter will be required.

   b) If the applicant or household member receives a pension, a pension benefit letter or a check stub from the pension will be required.

   c) If the applicant or household member has pay stub employment, current pay stubs will be required, along with maximum of two-year federal tax history. A minimum of two recent pay stubs will be required. An adding machine tape indicating how the stubs were used to calculate annual income should be attached to one of the stubs.

   d) If the applicant or household member works at seasonal or temporary employment and that history is anticipated during the next 12 months, a maximum three-year federal tax return history will be required. Current year pay stubs can be required.

   e) If the applicant or household member is and has been self-employed, a three-year federal tax return history will be required for analysis.

   f) If there are assets, such as IRAs and Annuities, an account statement will be required and income will be determined based on HUD guidelines for assets under $5,000 and assets over $5,000.

ii. Regular gifted Income must be evidenced by proof of such income, such as a check stub, or a signed, written statement or electronic mail, under penalty of perjury. The statement is required by the person gifting the funds and the person or household being gifted the funds.

iii. Adult persons in the household with non-verifiable income must submit a signed statement, under penalty of perjury, stating their monthly income, the source of that income, or the reason for lack of income.

iv. All other income criteria, inclusions to income, and exclusions to income are defined by HUD guidelines as stated in the Loan Origination Policy.

7.3 Credit Report and Debts

i. Within 2 days of receipt of application and preliminary income eligibility, a credit report shall be obtained on the applicant(s). The Housing Financial Specialist must obtain an Authorization to Verify Information prior to obtaining a credit report, or verifying any information with a third party.

ii. If the applicant is eligible for a deferred payment loan, the credit report should be reviewed to determine if any public liens in prior position to a City loan, or to verify the applicant's actual debts to the debts listed on the application. The credit report should be used for verification of information. The credit score is not relevant for a deferred payment loan. Debt-to-income guidelines should be used to demonstrate the household's ability to continue to live in the home. If household income is non-taxable, income can be grossed up for non-taxability. A guideline is a 25% gross up of income.

iii. If the applicant is eligible for an amortized loan, the credit report should be analyzed for credit score, verification of debts, ability and willingness to repay the loan. The Housing Financial Specialist can use current FHA allowable debt-to-income ratios as a guideline for payment affordability. If household income is non-taxable, income can be gross up for non-taxability, using the 25% guideline. If the payment is not affordable or a hardship exists, the Housing Financial Specialist should discuss this with management. If a payment is affordable, but only up to a stipulated amount, the allowable loan amount must be documented and communicated to the Senior Housing Rehabilitation Specialist prior to the technical assistance.

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

7.4 Title Reports/Searches

i. The Housing Financial Specialist will order a Short Form Title Policy or Prelim from the service provider, depending on the projected loan amount.

ii. A short form title policy may be used for loans $50,000 and under. A full lender's CLTA (California Lenders Title Insurance Association) must be used for loans over $50,000. Exceptions to this policy can be approved, in writing, with documentation, by the Deputy Director, Parks, Recreation, and Neighborhoods. Short form title policies are used in order to reduce the borrower's costs and smaller dollar loans carry less risk.

iii. Invoices for title reports and mobilehome title searches are paid by the City and included in the loan. If a loan is withdrawn or denied, the title report fee is an administrative cost to the rehab budget.

iv. The title report will be reviewed to verify if there are other liens prior to a City loan, and if there is sufficient equity in the property for a City loan. Any clouds on title (any claim, condition or encumbrance that impairs title to real property) must be removed or

subordinated.

v. Stanislaus County Grant liens must be subordinated. Contact the Stanislaus County Revenue Recovery.

vi. Declarations of Homesteads may remain on title.

vii. Taxes must be paid current. Any tax deferment plan through the State must be added into the loan to value calculation.

viii. Mobilehomes-Order a check from Finance and request a State of California Title Search. This formal search is good for four months.

ix. ***Special Note***: Other persons not living in the household may be on title. The program must benefit a low-income household who is living in the home. Persons not on title must complete an application and will be required to execute the loan documents. Their income, credit, debts may be used for re-payment purposes, if the loan requires monthly payments.

7.5 Loan-to-Value

i. If the loan is on real property, use the applicable City software program to obtain comparable sales. Analyze and determine if there is sufficient equity in the property. If a mobilehome, use multiple listing information and any other information that can be obtained to establish the value.

ii. Obtain a general cost estimate from Senior Housing Rehabilitation Specialist. If there is insufficient value in the property for ballpark cost estimate, advise the Senior Housing Rehabilitation Specialist as to what amount is available.

iii. If it is determined that a formal appraisal of the property needs to be obtained to verify the value of the property, the applicant must sign an Advance Payment Agreement for Professional Services, approved by management, and a formal appraisal will be ordered from a certified appraiser. The appraiser will be selected in accordance with the City's procurement policy.

7.6 Insurance

i. If the property owner does not have fire insurance, this must be brought to the attention of the Senior Housing Rehabilitation Specialist prior to technical assistance. The property owner must be informed that they should obtain fire insurance for their own protection.

ii. A proposed policy can be quoted from a service provider and submitted to the Housing Rehabilitation Loan Committee (HRCL) for inclusion in the loan. The property owner must apply for and be the owner of the policy. The coverage must be from loan closing to the estimated completion date, or longer. The loan should cover the minimum amount of time that can be purchased through the policy. The property owner is responsible for payment after the period purchased in the loan is expired.

7.7 Exceptions

Any exception to these procedures due to the special circumstances within a file or special circumstances relating to the applicant can be approved by the HUD Program Manager.

7.8 Conditional Eligibility

i. If the household is income eligible, and underwriting criteria meets the qualifications of the housing rehabilitation program, the property owner will be issued a conditional eligibility letter by the Housing Financial Specialist. The letter will notify the applicant if conditional eligibility is for a deferred payment loan or an amortized loan. If it is an amortized loan, the monthly payment amount will be estimated in the letter. The loan interest rate, loan term, and any loan conditions such as owner occupancy will be identified in the letter. The property owner is notified that the HRLC must approve the loan and updated income information could be required prior to the loan being submitted to the loan committee. The letter shall notify the applicant that any changes to number of persons in household or a change in household income could affect eligibility to the program.

ii. Upon conditional eligibility, the Housing Financial Specialist will prepare project folder for the Housing Rehabilitation Specialist. The folder will contain a blank conversation log, initial inspection information, property information, conditional eligibility information, and a memo on any special circumstances on payments or value that the Housing Rehabilitation Specialist needs to be aware of.

7.9 The File

i. The file should be kept in a neat and orderly manner and all papers should be fasted down. The file must be kept in a locked cabinet during non-working hours.

ii. The left inside cover will contain the telephone contact log(s) of the Housing Financial Specialist and any correspondence sent. The information will be in chronological order. The right inside cover will contain the Housing Rehabilitation Specialist's log upon completion of the file.

iii. The title information and loan application and corresponding documentation should be kept in the marked stacking order in the middle sections of a six part legal file.

iv. The technical assistance information should be kept in the stacking order on the left back portion of the file. The disbursement information should be opposite the technical assistance information.

v. Upon completion of the file, the stacking order should be placed in the file, verified by the Housing Financial Specialist and reviewed by the Administrative Clerk.

7.10 Withdrawn and Denied Applications

A letter must be sent to the applicant per the Loan Origination Policy.

7.11 Updating Documentation Prior to submission to the Housing Rehabilitation Loan Comm.

i. If the household income changes each calendar year, such as SSA or SSI, the income should be updated if a new calendar year has occurred.

ii. If any of the household income is determined by underwriting by pay stubs, and the pay stubs in the file are more than 60 days old, the Housing Financial Specialist must request two recent pay stubs.

iii. If the credit report is more than 90 days old and the loan is an amortized loan, an updated credit report should be done. The Housing Financial Specialist may use discretion for deferred payment loans.

iv. Update title report if necessary or check Stanislaus County Recorder's website for any recordings under the applicant's name.

v. Verify taxes are paid current through the Tax Collector's Office or through a Tax Supplement from the title company.

vi. Obtain written verification that property insurance is still in effect. If insurance is expired, obtain a new declaration page from the property owner or the insurance agent.

vii. The Housing Financial Specialist is responsible that HUD funds are available and there are funds in the City budget available for the loan.

viii. Submit an approved format City committee agenda report to management. Attach Summary information on the project and the household, and a copy of the Awarded Bid. Document the file with a map showing the addresses of current committee members to demonstrate there is no conflict of interest for any members, or alert management if there is any known conflict of interest.

ix. The HRLC agenda reports are distributed by the Administrative Clerk.

7.12 Housing Rehabilitation Loan Committee

i. The loan is submitted to the Housing Rehabilitation Loan Committee. Meetings are scheduled for the first and third Thursdays of each month.

ii. If the loan must be submitted to City Council, submit an approved format City Council agenda report to management. The report will not have the summary attachment that is used for HRLC. The relevant household information and project information must be contained in the text of the report.

iii. Committee or Council minutes (an Resolution) are filed with the applicable Committee of Council agenda report.

7.13 Loan Approval or Denial

i. If the HRLC denies the loan, the applicant must be sent a letter, as described in the Loan Origination Policy.

ii. If the loan is approved and if the applicant is not present at the meeting, the applicant is telephoned with the results of the meeting. If the loan is approved, the loan signing appointment can be made during the phone call.

iii. A loan approval letter must be sent to the borrower(s). The letter should state the loan terms and any conditions to the loan. The date and time of the loan signing appointment can be included in the letter.

7.14 Executed Loan Documents

i. All pro forma loan documents used in loan closing must be approved by the City Attorney's office. If there is a unique situation on a loan requiring modification of the wording on any loan document, consult the City Attorney's office. Loan documents are, but not limited to:

Promissory Note-Straight or Amortized
Deed of Trust (real property)
Security Agreement (mobilehome)
Loan Agreement
Loan Disclosure
Agreement to Furnish Insurance
Hold Harmless Letter
Notice of 3-Day Right of Rescission (owner occupied property only)
Trust Certification (for Revocable Living Trusts)

ii. The Housing Financial Specialist and City Notary meet with the borrower(s) to sign the loan documents. The borrower may sign the loan papers at the City offices, or if they are unable to come to City offices, the Housing Financial Specialist and Notary may travel to the home of the borrower. The signing should be in a location that offers confidentiality to the borrower. Copies of the documents are given to the borrower. The loan papers should be explained to the borrower in detail.

PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT
Recreation & Neighborhood Services Division
Housing Rehabilitation Program

POLICIES FOR CONTRACTOR PAYMENTS
Chapter 8

8.1 CONTRACTOR PAYMENT GENERAL POLICY

i. Contractor payments from loan proceeds are disbursed through the City of Modesto Finance Department.

ii. In the event of property owners who are husband and wife in joint tenancy or tenants-in-common, the signature of either spouse will be sufficient for all Payment Requests. In the event of property owners who are unmarried individuals, the signatures of all those having legal interest shall be required on the Payment Request, unless Power of Attorney has been granted as specified.

8.2 SUBMITTING A REQUEST FOR PAYMENT

i. Upon completion of the work item(s) identified in the Property Improvement Agreement progress payment schedule, the contractor shall be responsible for contacting the city representative and requesting an inspection of the work and authorization of a disbursement from the owner's loan funds.

ii. The contractor must provide an invoice to the City.

8.3 PROCESSING CONTRACTOR PAYMENT FOR TECHNICAL INSPECTION

i. The City representative will conduct a site inspection to verify that the work has been satisfactorily completed as per the Property Improvement Agreement

ii. The City representative shall request the property owner(s) and contractor to be present during the inspection. It is encouraged that the owner always be present, if possible.

iii. Upon finding that the work specified in the work write-up has been completed properly and that the work has passed any other required inspections, the City representative will complete a Payment Request form for the proper amount of the draw and any applicable change orders. The property owner and the City representative shall sign the form as evidence of satisfactory completion of work. The contractor may sign the Payment Request form.

8.4 PROCESSING CONTRACTOR PAYMENT

i. The Payment Request form and contractor invoice are processed by the assigned staff member in the housing rehabilitation program for the actual disbursement of funds.

ii. It is the responsibility of city staff to verify the disbursement is in accordance with the Property Improvement Agreement and any change orders to that agreement.

iii. Disbursements shall be made in the form of a City of Modesto check, made payable to the name on the contractor's license.

iv. The final draw payment, excepting the 10% retention, will be conditional upon passing a Final Inspection by applicable State or City building inspector, Certificate of Completion, and a Certification of Pest Control Clearance, if required, and a Lead Based Paint Clearance, if required, or any other necessary inspections.

v. The 10% retention payment can be paid to Contractor thirty-five (35) calendar days after a notice of completion of the work has been recorded in the official real property records of Stanislaus County or ninety-five (95) calendar days after substantial completion of the work if no completion notice is recorded. These waiting periods may be waived if Contractor furnishes to the property owner, proof satisfactory to the City of Modesto, that contractor has completed the work free from liens or claims of any kind whatsoever affecting the property owner or owner's property.

vi. After verification of funds and documentation, the assigned staff person will sign the Payment Request and submit the Payment Request, contractor's invoice, and Check Request for authorized department signature. The documents are delivered and processed by the City Finance Department.

8.5 DISBURSEMENT OF CONTRACTOR PAYMENTS

i. Checks shall be made available to the payee in accordance with the processing schedule established by the City of Modesto Finance Department.

ii. After the contractor check is delivered from the Finance Department, the contractor may pick up disbursement checks from the City of Modesto or checks can be mailed to the contractor's address on file. Contractors who pick up disbursement checks from the City of Modesto must sign for receipt of the check. Checks will not be released to any other person unless there is written authorization on file.

PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT
Recreation & Neighborhood Services Division
Housing Rehabilitation Program

PROCEDURES FOR CONTRACTOR PAYMENTS
Chapter 8

8.1 SUBMITTING REQUEST FOR PAYMENT

i. Upon notification from the contractor that the work has been completed in accordance with the Property Improvement Agreement or per approved change orders, the Housing Rehabilitation Specialist shall conduct the inspection on the same business day, if possible, and no later than the next business day.

ii. The Housing Rehabilitation Specialist will contact the property owner and contractor by phone or in person to coordinate the inspection time.

iii. The contractor shall submit an invoice to the Housing Rehabilitation Specialist. The invoice shall describe the work completed: description or item numbers per the Property Agreement, description of Change Orders, or the permit cost, and the total amount that is due and payable to the contractor. Proof of the permit fee must be submitted if a permit reimbursement is requested. The invoice shall identify the Contractor's name, mailing address, and State Contractors License number. The contractor shall sign the invoice.

8.2 PROCESSING CONTRACTOR PAYMENT BY HOUSING REHABILIATION SPECIALIST

i. A record of inspection shall be recorded in the ongoing contact record.

ii. The Housing Rehabilitation Specialist shall verify that the amount of the invoice is for the correct amount, per the Agreement or approved Change Orders.

iii. If the Housing Rehabilitation Specialist and the property owner find that the work has been satisfactorily completed as per Agreement or change orders, both parties shall sign the Payment Request. The contractor may sign the Payment Request, but the contractor's signature is not required if the contractor has signed his/her invoice.

iv. The Payment Request must be filled out completely and accurately. Any cross outs to the document must be initialed by the property owner and the Housing Rehabilitation Specialist.

v. The Payment Request must clearly identify each numbered item completed as per the Property Improvement Agreement and/ or change order number.

vi. The Housing Rehabilitation Specialist shall retain the applicable copy of the Payment Request for the rehab file, along with a copy of the contractor invoice.

vii. The Housing Rehabilitation Specialist shall deliver the signed original and one duplicate copy of the Payment Request, the original contractor invoice, and all other documents required by

the Agreement, to the Housing Financial Specialist no later than one business day after the site inspection. Attention should be given to the City's check processing schedule.

8.3 PROCESSING CONTRACTOR PAYMENT BY HOUSING FINANCIAL SPECIALIST

i. The Housing Financial Specialist shall verify the amount of payment as per Agreement. The Housing Financial Specialist must verify that the items listed are in accordance with the Agreement. If any other inspections or documents are required by the Agreement, the Housing Financial Specialist must verify these are in file. If a Termite Clearance is required, the Housing Financial Specialist must verify that the report indicates that the property has been cleared of all infestation. A Lead Based paint report must indicate Clearance of hot areas. If the payment if the full payment, excepting the 10% retention, a Certification of Completion must by signed by the Housing Rehabilitation Specialist and property owner(s). If any building State or City Building Inspector or through the City's Building Inspection software. If there is a Notice and Order on file, the City Building Inspector's signature is required on the Certificate of Completion. If the payment is the 10% retention payment, the Housing Financial Specialist must receive Unconditional Lien Releases from the Housing Rehabilitation Specialist.

ii. The Housing Financial Specialist will complete the Accounting Box at the bottom of the Payment Request form. The applicable copy of the Payment Request (or photocopy) and a copy of the invoice must be filed in chronological order under the Disbursement Ledger in the file.

iii. The Housing Financial Specialist will enter the date, reason, and amount of disbursement on the Disbursement Ledger and place a current ledger in the file, on top of the disbursement documentation. The ledger must indicate amount remaining for the contract, contingency and fees. The ledger must indicate Change Orders paid and any pending Changes Orders by number.

iv. The ledger must indicate permit number, permit date, date of final, and dates of any other documents required by the Property Improvement Agreement.

v. The Housing Financial Specialist, or designee, shall prepare the Check Request and attach the original Payment Request form and original contactor invoice. An authorized department signature will be obtained on the Check Request. The Check Request will be notated for the check to be returned to the Housing Financial Specialist. Department Admin will deliver the Check Request to Finance and a copy to the Grant Accountant.

vi. In the absence of the Housing Financial Specialist, a supervisor shall verify and sign the Payment Request.

vii. The Housing Financial Specialist must have documented approval from management for any disbursement not in accordance with these procedures.

8.4 DISBURSEMENT OF CONTRACTOR PAYMENTS

i. The Housing Financial Specialist shall take delivery of check(s) issued by the Finance Department.

ii. The Housing Financial Specialist or designee shall contact the contractor via phone that the check is available for pick up. If the contractor asks the Housing Financial Specialist to mail the check, it will be mailed that day.

iii. Checks will be placed in the pick up area at the front counter. Personnel will have the contractor sign the check stub as evidence of receipt and the stub shall be placed in chronological order in the contractor file in the disbursement section. If the payment is a project retention payment and the contractor has not signed an Unconditional Lien Release, the contractor must sign an Unconditional Lien Release to receive the check. The signed check stub shall be filed with the copy of the Payment Request in the Housing Financial Specialist's file.

8.5 TWO-PARTY CHECKS

i. Two-party checks may be issued as requested by the property owner, provided that the property owner is not one of the payees.

ii. Two-party checks shall be required under special circumstances, including: A Preliminary Lien Notice has been received by the property owner and the General Contractor is not able to furnish a Lien Release signed by the filing party prior to issuance of the progress payment.

8.6 SPECIAL CIRCUMSTANCES

i. In the event that a Mechanic's Lien is filed against a property, the City Attorney's office should be consulted for information and instructions on how to proceed with payments on that housing rehabilitation project.

ii. The Senior Housing Rehabilitation Specialist shall immediately freeze all payments on all rehabilitation jobs to a contractor who has had any subcontractor, supplier, employee, or other person file a recorded Mechanic's Lien against a property being rehabilitated. The contractor shall submit Lien Release with notarized signature(s) prior to disbursement of progress payments on all housing rehabilitation projects.

PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT
Recreation & Neighborhood Services Division
Housing Rehabilitation Program

POLICY FOR WORK MONITORING, QUALITY STANDARDS, GIEVANCES, COLLECTIONS, FORECLOSURES AND APPEALS

Chapter 9

9 .1 REHABILITATION WORK PRIOR TO ORDER TO PROCEED

i. An *Advance Payment Agreement* must be signed by the property owner and approved by management for any housing rehabilitation work done prior to the loan closing and the *Order to Proceed.*

ii. The rehabilitation work done under the *Advance Payment Agreement* is limited to emergency work needed for the health and safety of the occupants of the home.

iii. Bids must be obtained in accordance with City procurement policy.

iv. Staff must give written notice to contractor to perform any work as required by an *Advance Payment Agreement.*

v. Upon completion of the work to the satisfaction of the property owner, City staff, and any required Building Inspection, contractor shall be paid for the emergency work through a *Payment Request.*

9. 2 COMMENCEMENT OF WORK

i. Contractor shall not commence rehabilitation work or order materials until an *Order to Proceed* has been signed by the property owner and forwarded to the contractor by City staff.

9.3 COMPLIANCE WITH WORK SPECIFICATIONS

i. The rehabilitation work must meet the specifications of the *Property Improvement Agreement* and attached Work Write-up for the project, known as the *Agreement.* The work must also meet the minimum requirements of the Rehabilitation Specifications Manual, in addition to any State or City Codes.

i. City staff shall conduct regular site inspections to monitor the quality and timeliness of the work in progress by a contractor or by an approved owner-builder. City staff must maintain a written work log for dates, times, and comments on all site inspections.

ii. City staff shall issue a written notice to contractor of any and all corrections, or items or work that fails to meet compliance to the *Agreement*, or if the contractor is not in

compliance with State laws and regulations for contractors. The contractor will be out of compliance and not eligible for payment. All corrections must be completed and approved prior to the contractor receiving any progress payments.

9.4 WORK CHANGE ORDERS

i. Any Work Change Order must be executed for any alterations or deviation from the specification of the *Agreement*, including items with no cost differential. A City of Modesto Work Change Order form must be completed

ii. The Work Change Order must signed by the property owner(s), the contractor, and City staff. The work cannot be done until the Work Change Order is approved by management and delivered to the contractor.

iii. Contractor cannot be issued Work Change Order cannot exceed the amount available in the loan unless approved by management.

iv. No oral agreements are allowed by any party involved in a housing rehabilitation project financed through the City of Modesto.

9.5 COMPLETION OF THE PROJECT

i. A *Certificate of Completion* shall be signed by City staff, the property owner, and the contractor when the work has been 100% completed to the satisfaction of all parties, and in accordance with the specifications of the *Agreement*, and passed the necessary inspections by the required Building Inspector.

9.6 GRIEVANCE/DISPUTE RESOLUTION/FORMAL ARBITRATION PROCEDURES:

i. If the property owner is not satisfied with the work completed, or the contractor has not completed the work in accordance with the *Agreement,* City staff will meet with the property owner and contractor and attempt to resolve the dispute.

ii. If such informal resolution is unsuccessful, the property owner and the contractor must follow the arbitration steps and procedures as outlined in the *Agreement*.

9.7 COLLECTION OF PAYMENTS AND DELINQUENCIES

i. All loan payments are made directly the City's loan servicer.

ii. The Housing Financial Specialist follows the following loans on a continual basis: loans with payments 3 months past due or more, previously modified past due loans, matured loans, and loans with conditions that are out of compliance.

iii. The Housing Financial Specialist contacts borrowers by phone or letter for collection of payments or loans within the allowed practice of the California Civil Code in regards to Debt Collection Practices.

iv. The Housing Financial Specialist prepares a report of on the Status of Delinquent, Matured or Modified Rehab/DPAP loans for the Housing Rehabilitation Loan Committee at a minimum of twice a year.

9.8 FORECLOSURE ACTION

i. The Housing Rehabilitation Loan Committee must recommend by vote of the committee any default and subsequent foreclosure action against a loan.

ii. The default of foreclosure action must be reviewed by the City Attorney' office.

iii. If default or foreclosure action is taken by the City, the action is outsourced to a provider for default and foreclosure action. Any funds that are advanced the service provider are advanced from CDBG funds.

APPEALS or do we just say follow City policy

i. Decisions of the housing rehabilitation program staff

a) Any affected person may informally appeal the decision of staff to the Deputy Director, Recreation and Neighborhood Services Division.

b) Any affected person may appeal a decision of the Deputy Director to the Director or Parks, Recreation and Neighborhoods.

c) Any affected person may appeal the decision of the Director to the Housing Rehabilitation Loan Committee, depending on the particular program they are concerned with, according to provision of this section

ii. Decision of the Housing Rehabilitation Loan Committee

a) Except as provided in this section, any affected person may appeal a decision of the Housing Rehabilitation Loan Committee to the Citizens Housing and Community Development Committee.

b) No appeal to the Citizens Housing and Community Development Committee shall be available from any decision of the Housing Rehabilitation Loan Committee on the determination of eligibility for assistance or the type and amount of assistance to be awarded under any program under its jurisdiction. Appeals in such cases shall be to the City Council in accordance with Chapter 4 of Title 1 of the Modesto Municipal Code.

Memorandum

To: Barbara Kauss

CC: Julie Hannon

From: Hal McMurphy HM

Date 4/23/07

Re: Verification Results of Twelve Files For Office of Inspector General

---

1) Elena Cacerea- 2524 Garvey Ave.
   - Sold house October 2004

2) Manuel Cortez 423 & 425 Pine St.

   - # 423 Bathroom 2 ea. towel bars missing- evidence that they were installed, 4 mounting holes and mounting hardware visible.

   - # 425 No Garage- Garage no longer exists- now part of the living quarters of unit # 425.

   - No variations found.

3) James E. Jenness – 2517 Strivens Ave.

   - **Living room b)** Pocket doors to be installed. Note: on pg. #5 of WW-Up / bid sheet "owner has decided not to install door as shown."
   - **Bedrooms a)** room to be painted with satin finish- Walls are painted with flat. No difference in costs of paint finishes.
   - **Bedrooms b)** a new pair of bi-fold doors- owner said the bi-passing doors were supplied but owner ask that they not be installed, see photo of door lend against wall of bedroom.
   - **Master Bathroom a)** WW-up calls for a 60" vanity Cabinet- a 42" cabinet was installed, and an additional Oak double door linen closet was added (No WCO) see photo. Additional value at no additional cost to property owner..
   - **Laundry Room: a) & b)** painted semi-gloss, see pg. #6 of WW-up/Bid . No difference in costs of paint finishes.
   - No negative variations found.

4) Robert Wright/Judith Davidson – 2720 Sparks Way

- No variations found.

5) James Mayhan- 613 Rose Ave.

- **Exterior: d)** WW-up calls for a Chamberlin Lift Master Brand Garage Door Opener (see WW-up/Bid #16B). A Linear brand found. See photo, see comparison data sheets from Lowes and RCS Door Co. Chamberlain cost $127.00 and Linear model $295.00, also note that the warranty is longer on the Linear model. No variations found.

- **Exterior: f)** says a detached garage, Garage is attached see photo from J.W. Mack take 11/18/2004. No variations found.

- **Bathroom: h)** The existing vanity and medicine cabinet were to be reinstalled. See photo of pedestal sink, and WW-up/Bid sheet #13B. No variations found.

- **Bathroom: e)** WW-up calls for 2-new grab bars in tub/shower area, **only 1ea.** installed see photo. See WCO #5, changes shower surround to fiberglass, which eliminates the installing of a second grab bar. No variations found.

- **Bathroom: e)** WW-up calls for 2-new grab bars around toilet, **only 1 ea.** installed see photo. The current cost of a 12" long grab bar $ 32.67 installed, as per 2007 R.S.Means.

6) Josefina Moreno 416 Maple Street-

- No variations found.

7) Paul Kelly 1517 Victor Way.

- **Bathroom b)** A new Handicap toilet see pg.#2 WW-up/Bid sheet. An elongated toilet was installed with a Grab Bar. (see photo).Cost to the property owner was $375.00.

- No Variations found.

8) Betty Casaus 1613 Galvez –

- No variations found.

9) Juanita J. Moffitt 3229 Para Dr.-

- No variations found.

10) Mary Thorne 305 Longefellow Ave.-

- No variations found.

11) Connie Pierson- 2220 Jeanine Dr.

- Unable to verify on 4/18/07. Not sure she will be able to reschedule for Thursday 4/26/07 due to medical problems. See Memo from Gregory dated 4/24/07.

12) Carolyn Michaels 1412 Del Monte Ave.-

- Refused to grant us access to property. She did state "I'm very pleased with the work, that the Contractor did, at my house."

- No variations found.

84

RECORDING REQUESTED BY:
Fidelity National Title Company
Escrow No. 2040869-DP
Title Order No. 02040869

When Recorded Mail Document and Tax Statement To:
Mr. ~~and Mrs.~~ Jose Velazquez
2524 Garvey Avenue
Modesto, CA 95350

Stanislaus, County Recorder
Lee Lundrigan Co Recorder Office
DOC- 2004-0179287-00
Acct 502-Fidelity National Title
Friday, OCT 29, 2004 08:00:00
Ttl Pd $292.00 Nbr-0001623647
MJH/R3/1-1

APN: 005-043-057

GRANT DEED

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned grantor(s) declare(s)
Documentary transfer tax is $275.00 SURVEY MONUMENT FEE $10
[X] computed on full value of property conveyed, or
[ ] computed on full value less value of liens or encumbrances remaining at time of sale,
[ ] Unincorporated Area City of Modesto

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
Elena Caceres, Unmarried Woman

hereby GRANT(S) to Jose Velazquez, an Unmarried Man

the following described real property in the City of Modesto, County of Stanislaus, State of California:
Lot 7 in Block 7253 of HIGHWAY VILLAGE, as per map filed April 25, 1947 in Volume 16 of Maps, at Page 41, Stanislaus County Records.

DATED: October 15, 2004

STATE OF CALIFORNIA
COUNTY OF Stanislaus
ON October 25, 2004 before me,
Laura A. Savo personally appeared
Elena Caceres

~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person(~~s~~) whose name(~~s~~) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(~~ies~~), and that by ~~his/her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

Witness my hand and official seal.

Signature Laura A. Savo

Elena Caceres

LAURA A. SAVO
COMM. #1297528
NOTARY PUBLIC-CALIFORNIA
STANISLAUS COUNTY
My Comm. Expires Mar. 17, 2005

MAIL TAX STATEMENTS AS DIRECTED ABOVE

RECORD IN ORDER PRESENTED

150

Property Details

For Property Located At

2524 Garvey Ave
Modesto, CA 95350-1710
Stanislaus County

Owner Info:

Owner Name:	Velazquez Jose	Recording Date:	10/29/2004
Tax Billing Address:	2524 Garvey Ave	Annual Tax:	$2,628
Tax Billing City & State:	Modesto, CA	County Use Code:	Single Family Resid
Tax Billing Zip:	95350	Universal Land Use:	SFR
Tax Billing Zip+4:	1710		

Location Info:

School District:	Modesto	Carrier Route:	C008
Subdivision:	Highway Village	Flood Zone Panel:	0603870005D
Waterfront Influence:	Type Unknown	Panel Date:	05/07/2001
Census Tract:	8.03	Flood Zone Code:	X

Tax Info:

Tax ID:	005-043-057-000	Improved Assessment:	$153,000
Alt APN:	005-43-57-000	Total Assessment:	$255,000
Tax Year:	2006	% Improv:	60%
Annual Tax:	$2,628	Tax Area:	2006
Homestead:	Homeowner	Legal Description:	Lot 7 Blk 7253 Highway Vill
Assessment Year:	2006	Lot Number:	7
Land Assessment:	$102,000	Block ID:	7253

Characteristics:

Lot Frontage:	50	Heat Type:	Central
Lot Acres:	.14	Garage Type:	Garage
Building Sq Ft:	1,058	Garage Capacity:	1
Stories:	1	Construction:	Wood
Quality:	Average	Year Built:	1955
Bedrooms:	3	Gross Bldg Area:	1,058
Total Baths:	1	Block ID:	7253
Full Baths:	1	Subdivision:	Highway Village

Last Market Sale:

Recording Date:	10/29/2004	Deed Type:	Grant Deed
Settle Date:	10/15/2004	Owner Name:	Velazquez Jose
Sale Price:	$250,000	Seller:	Caceres Elena
Document No:	179287		

Sales History:

Recording Date:	10/29/2004	11/30/1999
Sale Price:	$250,000	$70,500
Buyer Name:	Velazquez Jose	Caceres Elena
Seller Name:	Caceres Elena	Moore Garrett D
Document No:	179287	900-1814
Document Type:	Grant Deed	Grant Deed

Mortgage History:

Mortgage Date:	10/29/2004	10/29/2004	06/01/2004	03/02/2004
Mortgage Amt:	$200,000	$50,000	$150,000	$25,301
Mortgage Lender:	Greenpoint Mtg Fndg	Wells Fargo Bk	World Svgs Bk Fsb	City Of Modesto
Mortgage Type:	Conventional	Conventional	Conventional	Conventional

The data within this report is compiled by First American Real Estate Solutions from public and private sources. If desired, the accuracy of the data contained herein can be independently verified by the recipient of this report with the applicable county or municipality.

(3)

IG PROJECT (Verification)

MANUEL CORTEZ 423 & 425 PINE

Legends
Y- Yes
N- No

EXTERIOR:

a) Both units got new 25 year composition roof installed on both units. The rafter tails were to be cut back, do to dry rotted. Y
b) Both units got new 100AMP service panels. Y
c) A 120 liner feet of French drain was installed.
d) Both units got new dual-glazed, horizontally sliding, aluminum frame windows. Y
e) New 7/16" pre-painted siding was installed on the rear unit. Y
f) A new gas meter was installed at the rear unit. Y

UNIT #423
BATHROOM:

a) New GFCI protected outlet was installed. Y
b) New toilet, steel enameled tub with new chrome control valve & shower head, and 18" x 19" vanity cabinet with cultured marble countertop with basin and chrome single lever faucet was installed. Y
a) New aluminum frame bathtub sliding temper, obscured glass doors was installed. Y
b) New mirror medicine cabinet was installed above the vanity. Y
c) New sheet vinyl floor covering was installed. Y
d) The bathroom was painted semi-gloss.
e) 2-new 30" towel bars and toilet paper holder was installed. Y/N *

** Appears 2 towel bars were installed at the time of rehab as evidenced by remaining hardware holes and partial hardware present.*

BEDROOM:

a) New hardwired, battery back-up smoke detector was installed in the bedrooms and hallway given access to the bedrooms. Y Y

b) New hollow core, solid wood styles and rails door was installed at the closet.

REAR PORCH:

a) A new 30 gallon, energy efficient, gas water heater was installed. Y

b) New vinyl sheet floor covering was installed. Y

UNIT #425

DOORS:

a) 3-solid core, masonite, prime coat doors was installed at the front, rear, and north east room of the house. Y

LIVING ROOM:

a) A single sided wall heater or furnace was installed. Y

b) New baseboard, trim and molding was installed throughout the unit. Y

c) The living room was painted semi-gloss. Y

BATHROOM:

a) New GFCI protected outlet was installed. Y

New toilet, fiberglass shower stall with new chrome control valve, and 18" x 19" vanity cabinet with cultured marble counter top with basin and chrome single lever faucet was installed. Y

b) New aluminum frame bathtub sliding temper, obscured glass doors was installed. Y

c) New mirror medicine cabinet was installed above the vanity. Y

d) New sheet vinyl floor covering was installed. Y

e) The bathroom was painted semi-gloss. Y

f) 2-new 30" towel bars and toilet paper hold was installed. Y

g) A linen closet with shelving was built with a 30" x 6-'8" hollow code, solid wood styles and rail door. Y

BEDROOM:

a) The north east bedroom window was frame-in. Y

b) A new closet was built in the north-east bedroom with bi-pass doors and rod/shelf. Y

c) The bedroom was painted semi-gloss. Y

KITCHEN:

a) New base and upper cabinets and formica countertops, 33" x 21" stainless steel double bowl, self-rimming deck-mounted sink with chrome, single lever faucet with sprayer, and 30" white range hood was installed. Y

b) The kitchen was painted semi-gloss. Y

GARAGE:

a) The garage door was removed and re-frame for a new door and window opening of 4^0 x 4^0 opening. New siding was installed to match the existing siding. Y/N*

** No garage*

CITY of MODESTO

LEE GONZALES
Supervising Building Inspector

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT
BUILDING INSPECTION
1010 TENTH STREET, SUITE 3100
P.O. BOX 642 • MODESTO, CA 95353
(209) 577-5232 • FAX (209) 571-5135
24-HOUR RECORDER (209) 571-5881
INSPECTORS' PHONE HOURS: 7-7:30 AM & 5-5:30 PM
Email: **lgonzales@modestogov.com**

JAMES E. JENNESS 2517 STRIVENS AVE.

Legends
Y- Yes
N-No

EXTERIOR:		
a)	A new patio slab was pour with a new patio cover.	Y
b)	Addition was built-on to the house with new 3-coat stucco system and the existing stucco got color coated.	Y
c)	All the windows got replaced with dual-glazed, aluminum frame windows. The existing window opening in the living room was reframe for (3) 2' x 5' vertical windows with lower half to open.	Y
d)	(3) doors got replaced and they are the front door, house to garage door, and garage to patio door. The type of door is a solid core, colonial-steel clad with raised panels.	Y
e)	The main electrical service panel was change to a 200 AMP main electrical service panel.	Y
f)	3-new hose bibs were installed around the addition.	Y
g)	A new sectional roll-up garage door was installed.	Y
MECHANICAL:		
a)	The existing furnace was removed and a new roof mounted, 21/2-Ton dual-pack unit was installed. Where the furnace was removed a new 32" x 24" under floor access opening was installed.	Y
b)	A new energy efficient 40 gallon, gas water heater was installed with a new door to the water heater closet.	Y
LIVING ROOM:		
a)	The living room was painted with a satin finish.	Y
b)	A new pair of pocket doors was installed.	N/A
c)	New carpet was installed.	Y
DINING ROOM:		
a)	The room was painted with a satin finish.	Y
BEDROOMS:		
a)	All the bedrooms were painted with a satin finish.	N
b)	A new pair bi-fold doors was installed.	N

c)	New carpet was installed in all the bedrooms.	Y

MASTER BATHROOM:

a)	New white enameled cast-iron bathtub with polished single control and washer-less faucet. New culture marble surround with soap dish, toilet, and *60" vanity cabinet* with cultured marble top and bowl. A chrome single lever faucet was installed.	Y Y/N*
b)	The master bathroom was painted semi-gloss.	Y
c)	New vinyl sheet floor covering was installed.	Y

** 42" Cabinet installed*

LAUNDRY ROOM:

a)	The laundry room was painted semi-gloss.	N
b)	New sheet vinyl flooring was installed in the laundry room.	Y

HALLWAY:

a)	A linen cabinet was installed	Y
b)	New carpet was installed.	Y

LAUNDRY ROOM:

a)	A molded access box with the water supply and standpipe for the washing machine was installed.	Y
b)	The laundry room was painted semi-gloss.	N
c)	New vinyl sheet floor covering was installed.	Y

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Doors

ide all labor and material to complete as follows:

As per attached plans Install four (4) hollow core interior doors, made with solid wood styles and rails, natural wood veneer, each hung with one pair of butt hinges and polished brass passage latch sets as manufactured by Kwikset.

As per plans, install two (2) pairs natural wood bifold doors, to fit opening. Units shall be assembled with concealed hinges and include complete hardware, pull knob and catch latch as per manufacturer's instructions.

Install two hollow core doors, made with solid wood styles and rails, complete with pocket frame and track hardware. Door pull to be polished brass as per manufacturer's instructions.

Note: Plans indicate pocket door at dining area , owner has decided not to install door as shown.

$ 1,800.00

)E Insulation

Provide all labor and material to complete as follows:

Under raised floor of new addition, install fiberglass batts backed with vapor barrier and having an R-14 rating.

Install blown fiberglass insulation having an R-38 rating in attic space of house, including addition.

At existing perimeter walls, mechanically drill from exterior and install blown fiberglass insulation having an

R-14 rating in the wall cavities, then properly patch exterior.

At addition, install fiberglass batts, backed with vapor barrier in exterior wall cavities with R-14 rating.

$ 850.00

)B Gypsum Board

Provide all labor and material to complete as follows:

At room addition, furnace closet and wall/window alterations, install 1/2" gypsum board, then tape, top, and texture. Note that surface texture shall be selected b/y owner or be compatible to existing surfaces in home. At firewall separating house and garage all voids in firewall are to be properly repaired.

$ 4,000.00

1B Clothes Rod and Shelves for Closets

Provide all labor and material to complete as follows:

In all closets, install nominal 1" x 12" #2 pine shelving and 1-5/16" full round DF closet rods supported on metal brackets.

$ 750.00

2B Trim, Molding, and Baseboards

Provide all labor and material to complete as follows:

At addition and all existing room areas. install door/window trim, sills, moldings and baseboards to match existing used in house and all closets, install nominal 1" x 12" #2 pine shelving and 1-5/16" full round DF closet rods supported on metal brackets as per plans.

Pg #5 From James E. Jenness Write-up $ 500.00
2517 Strivens Ave

Linen and W all Cabinets

Provide all labor and material to complete as follows:

See drawings for location, size, and details. Install custom manufactured wall cabinets made with solid hardwood fronts; hardwood veneer over solid plywood doors and drawer fronts, inverse beveled for "opening handle", plywood drawers, plywood shelves and back. Owner has selection of stain color and hardwood veneer selection.

$ 3,000.00

24B Interior Painting

Provide all labor and material to complete as follows:

Through-out entire unit, prepare and paint as per following: At existing walls, Wash walls, ceilings, and wood trim with a solution of trisodium phosphate (TSP). Scrape and/or sand chipped, peeled or loose paint. Fill cracks and holes. To existing cabinetry and new cabinetry apply a satin finish stain/sealer to match existing color. Apply one (l) coat primer to wall and ceiling surfaces of room addition. Kitchen, bathrooms, laundry room and hall areas: Two coats semi-gloss interior latex. All doors, trim, woodwork, baseboards and windowsills: Two coats semi-gloss latex. Walls and ceiling, including closets: Two coats flat interior latex. Touch-up where paint coverage is inadequate. Owner has choice of colors, with a maximum of one color per room.

$ 2,000.00

25B Resilient Flooring

Provide all labor and material to complete as follows:

In kitchen, dining, bathrooms and laundry areas prepare existing floor surface by removing existing floorcoverings and underlayment. Installing 1/2 inch particle board. Do not glue underlayment down. Install "no-wax" sheet vinyl floor cover with 4" high integral covi (over cove stick), capped with metal trim. Owner is to select color and pattern within the maximum of $15..95 per yard for material only

$ 2,050.00

26B Carpeting

Provide all labor and material to complete as follows:

In livingroom, bedrooms, hall and closets prepare floor surfaces by removing any existing coverings, cleaning and removing high spots, and/or filling depressions in any areas where tile or flooring is missing. Install 4lb.rebound padding, (minimum 4 lb. per yard) and perimeter tack strips.Install new carpeting as per manufacturer's recommendations padding shall meet minimum FHA Standards). Owner to select color, pattern, and fiber within the maximum of $13.95 per yard for material.

Note: Doors to operate without drag over new carpet.

$ 2,700.00

27C Exterior Paintings

Provide all labor and material to complete as follows:

Prepare and paint all paintable surfaces on exterior of house/garage/patio not covered by stucco. Wash down the exterior with water and brush or high pressure water spray to remove dust and dirt. Scrape, wire brush, and/or sand all loose, chipped and peeled paint. Reset nails where exposed. Prime all wood and sheetmetal surfaces with a primer undercoat. Apply two (2) finish coats of exterior latex. Owner has choice of color from standard mix with a two color scheme.

$ 700.00

Copy of James E. Jenness wh-up bid
Pg 6 - 2517 Strivens Ave 6

ROBERT WRIGHT/JUDITH DAVISON 2720 SPARKS WAY

Legends
Y-Yes
N-No

EXTERIOR:

a)	The existing roof was strip and two (2) torches down roof system were installed.	Y
b)	The exterior of the house was painted.	Y
c)	A GFCI protected outlet was installed.	Y

KITCHEN:

a)	New vinyl sheet floor covering was installed.	Y
b)	New GFCI protected outlets was installed.	Y
c)	Drywall damage repair was done around the window.	Y
d)	The standpipe was change to a 2" standpipe.	Y

HALLWAY:

a)	The furnace door was repaired and painted semi-gloss.	Y
b)	The furnace vent was flue was extended and strap in placed.	Y
c)	The water heater vent was extended and strap in placed.	Y

BEDROOMS:

a)	A hardwire or battery operated smoke detector was installed in each bedroom and hallway.	Y
b)	Drywall repair was done on the wall in bedroom #1 next to the door.	Y
c)	Bedroom #1 was painted semi-gloss.	Y
d)	A new hollow core, paint grade with flush panel door was installed.	Y

BATHROOM:

a)	A new cast iron tub was installed.	Y
b)	A new cultured marble surround was installed with a soap dish.	Y

c) New carpet was installed in all the bedrooms. Y

MASTER BATHROOM:

a) New white enameled cast-iron bathtub with polished single control and washer-less faucet. Y
New culture marble surround with soap dish, toilet, and *60" vanity cabinet* with cultured marble top and bowl. A chrome single lever faucet was installed. Y/N*

b) The master bathroom was painted semi-gloss. Y

c) New vinyl sheet floor covering was installed. Y

** 42" Cabinet installed*

LAUNDRY ROOM:

a) The laundry room was painted semi-gloss. N

b) New sheet vinyl flooring was installed in the laundry room. Y

HALLWAY:

a) A linen cabinet was installed Y

b) New carpet was installed. Y

LAUNDRY ROOM:

a) A molded access box with the water supply and standpipe for the washing machine was installed. Y

b) The laundry room was painted semi-gloss. N

c) New vinyl sheet floor covering was installed. Y

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Email: lgonzales@modestogov.com

JAMES & REGINA MAYHAN 613 ROSE AVE.

Legends
Y-Yes
N-No

EXTERIOR:

a) A new patio cover was built with 5/8" T&G sheathing over 2x rafters with a torch down roof covering. 50 linear feet of galvanized rain gutters and downspouts was installed.	Y.
b) A new 30 year composition with 80 linear feet of galvanized rain gutters and (5) downspouts was installed.	Y
c) A new 2 ½-Ton, roof mounted, dual-pack unit was installed, along with (1) return air and (8) HVAC vents.	Y
d) A new 10' x 7' four panel sectional roll-up garage door was installed with a new "Chamberlin Lift Master" garage door opener.	N*
a) A new ceiling electrical outlet was installed the garage ceiling for the garage door opener.	Y
f) The detached garage was painted with an acrylic latex paint color.	N *
g) A new side redwood gate was installed.	Y

** garage not detached*
** Incorrect opener model*

BATHROOM:

a) A new 3-'0" x 6-'8" hollow core, paint grade was installed	Y.
b) A new 3-bule light bar light fixture was installed above the vanity.	Y
c) A new GFCI protected outlet was installed.	Y
e) 2- new grab bars was installed in the tub/shower area and 2-new grab bars was installed around the toilet area.	N
f) A new exhaust fan was installed	Y
g) New 12" x 12" ceramic tiles were installed	Y
h) The existing vanity and medicine cabinet was reinstalled.	N
i) The bathroom was painted semi-gloss.	Y

KITCHEN:

a) New GFCI protection was installed.	Y

c) New GFCI protected outlet was installed. Y
d) The wall was repaired and painted semi-gloss. Y
e) New vinyl sheet floor covering was installed. Y

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14B **Ceiling Exhaust Fan Installation**

Provide all labor and material to complete as follows:

In Bathroom, install one new exhaust fan with a separate wall-mounted switch such as manufactured by Scovill Nutone or the equivalent. Include flue assembly for exterior discharge, back-flow gate, and weather cap.

Note: Gypsum board wall contain by definition lead/based paint. When impacting these surfaces, the use of proper lead/based paint safe work practices shall be acceptable. A clearance will be preformed on the property upon completion of the rehabilitation work. Refer to attached report.

$ 300.00

15B **Replace Garage Door - Enameled Steel**

Provide all labor and material to complete as follows:

Install a 10' x 7' four-panel sectional roll-up enameled steel garage door with all hardware, including heavy-duty weather stripping on bottom of door.

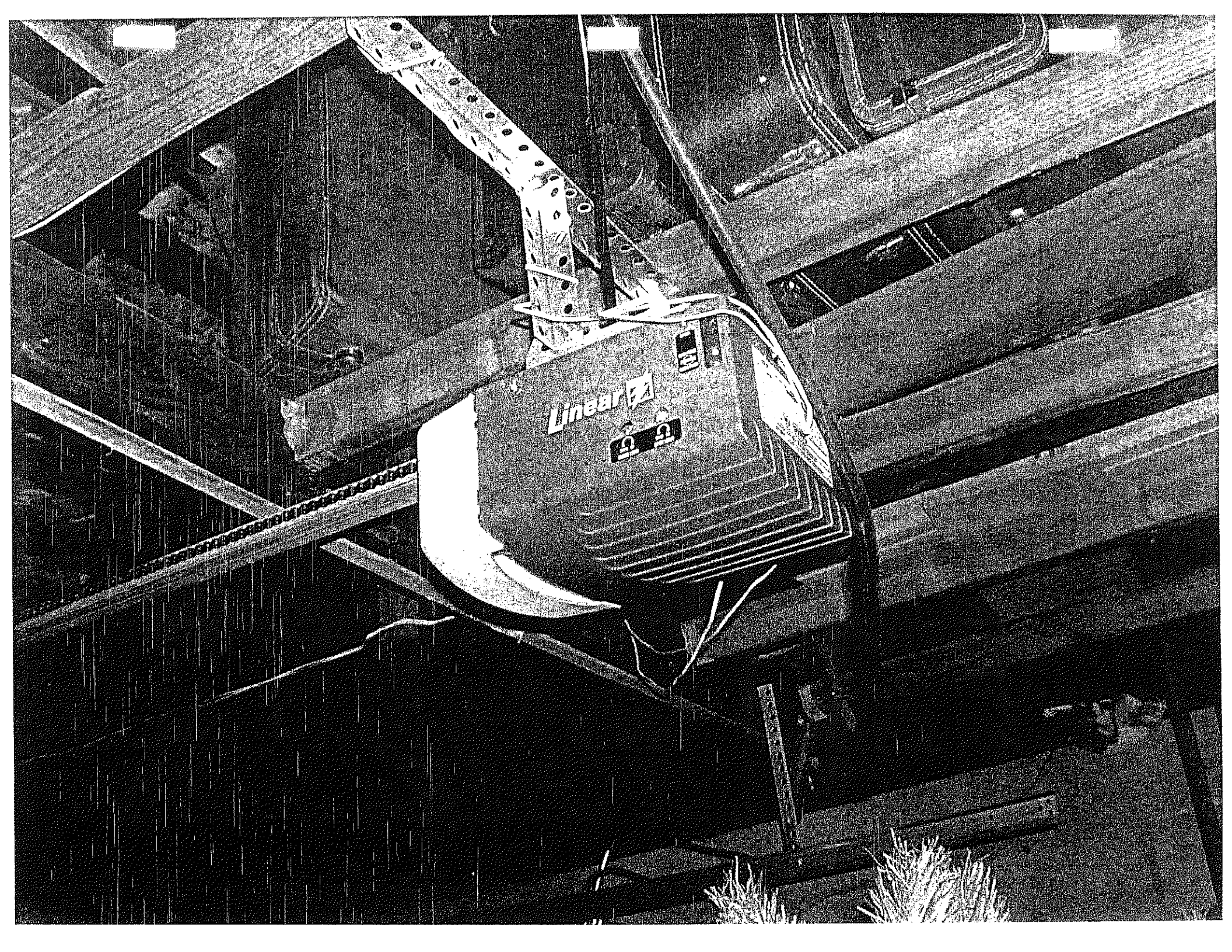
$ 800.00

16B **Garage Door Opener**

Provide all labor and materials to complete as follows:

Install a 1/2 hp chain drive Chamberlin Lift Master automatic garage door opener, including one (1) programmable digital radio control unit. Provide one (1) wall-mounted switch near 3-0 door.

$ 300.00


Linear

Linear LDO50 Residential Garage Door Openers LOWE'S 543-1618
HOME DEPOT 491-0200

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your garage door opener experts
Celebrating our 11th Year Online!

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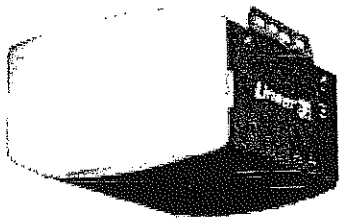
Sales 800-849-3998 Tech 818-725-7125 En Español

Linear LDO50 Residential Garage Door Openers

Linear LDO50 Residential Garage Door Openers

R.C.S. DOOR 545-2257

1/2 HP Deluxe Garage Door Operator
Model Number: LDO50



Product Links:
Manual 1
Manual 2
Literature
Accessories for use with the LDO50
Models compatible with the LDO50

$295.00

Product Number: LDO50

Features

Deluxe Wall Station STANDARD
Two Button Remote Control STANDARD
Open/Close/Park Door in EITHER direction STANDARD
Automatic Courtesy Light STANDARD
Warranty: Lifetime on Motor; 5 years on Mechanical; 1 year on Electronics
Replacement parts diagram click here.

City of MODESTO
A MODESTO WATER WEALTH CONTENT

Your Home Improvement
Loans Stores Products Contractors

Why Shop With Us?

Manufacturers

1st United Doors
ABT
AeGIS
Aiphone
Aleen
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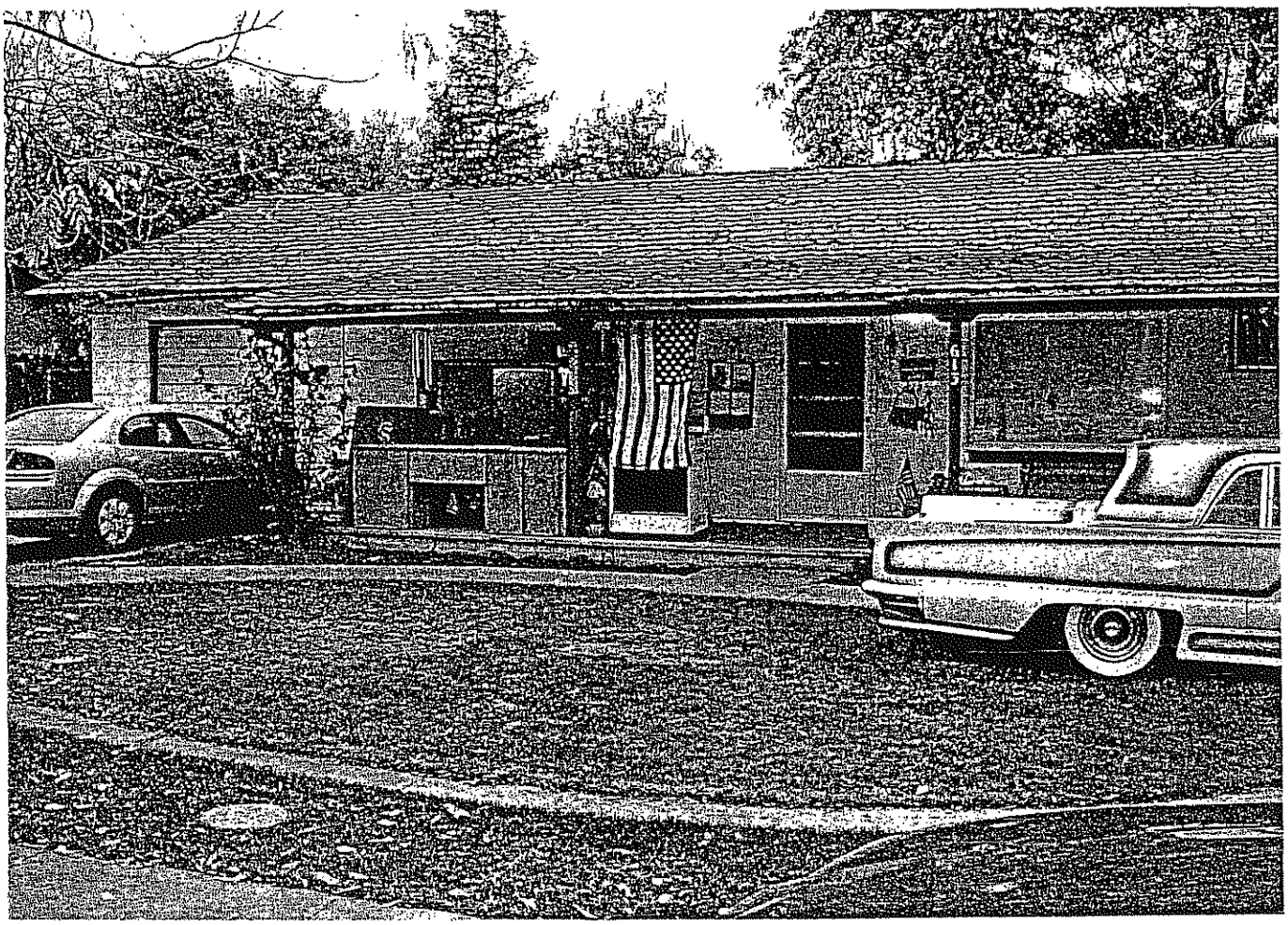


11/18/2004

11B **Interior Painting - Semi Gloss Latex**

Provide all labor and material to complete as follows:

In bathroom, prepare and paint, as per following: Wash walls, ceilings, and wood trim with a solution of trisodium phosphate (TSP). Scrape and/or sand chipped, peeled or loose paint. Fill cracks and holes. Note: If surfaces have evidence of water stain, apply a pigmented sealer/primer stain killer to all affected areas before water-base primers are used. Apply one (1) coat primer to remaining prepared surfaces. On all paint-able surfaces, apply 2 coats semi-gloss latex paint. Touch-up where paint coverage is inadequate. Owner has choice of colors, with a maximum of two colors.

$ 300.00

12B **Tile Floor Bathroom**

Provide all labor and materials to complete as follows:

In bathroom remove existing tile flooring and substrate material, and install manufactured concrete backer board as per manufacturers specifications. Install new 12"X12" ceramic tile over thin set, grout joints with sanded latex-portland cement. Owner will choose tile and grout from standard colors. Allow maximum $2.75 per Sq. Ft. for floor tile material.

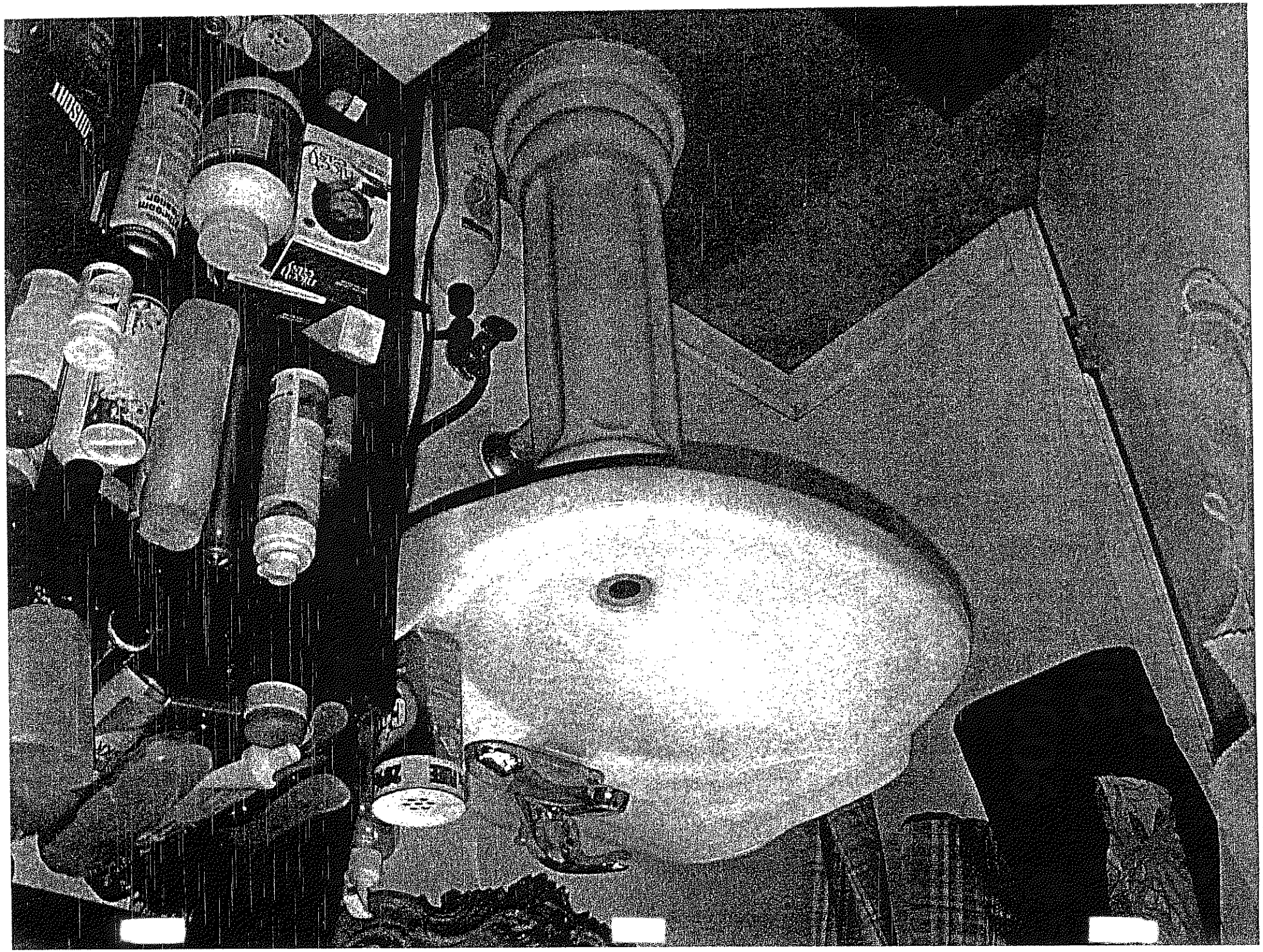
$ 800.00

13B **Reinstall existing Lavatory Sink / Medicine Cabinet/ Mirror**

Provide all labor and materials to complete as follows:

Reinstall existing lavatory sink, replace supply lines and angle stop shut off valves. Reinstall existing medicine cabinet and mirror.

$ 300.00



5B Tub/Shower Surround

Provide all labor and material to complete as follows:

Remove and dispose of existing tub and shower surround. Install new cast iron tub (white). Over mud bed float install standard 4-l/4" x 4-l/4" ceramic tiles set in mastic to six (6) feet high above floor/top of window on the three walls of tub/shower surround, including window sill and side and top jambs and a self-draining ceramic soap dish. Remove and dispose of existing shower doors. Grout joints with white latex non-sanded grout. Owner has choice of standard tile colors.

Note: Masonry wall contain by definition lead/based paint. When impacting these surfaces, the use of proper lead/based paint safe work practices shall be acceptable. A clearance will be preformed on the property upon completion of the rehabilitation work. Refer to attached report.

Note: Gypsum board wall contain by definition lead/based paint. When impacting these surfaces, the use of proper lead/based paint safe work practices shall be acceptable. A clearance will be preformed on the property upon completion of the rehabilitation work. Refer to attached report.

$ 4,500.00

6B Toilet

Provide all labor and material to complete as follows:

In bathroom, install new white vitreous china (Class A) toilet, new polished chrome plated brass angle stop and water supply, new mounting bolts, closet flange, new wax ring and new toilet seat.

Note: Toilet must remain functional during entire project.

$ 100.00

MODESTO

Recreation and Neighborhoods Services Division
Equal Housing Opportunity

WORK CHANGE ORDER # 5

PROJECT ADDRESS: 613 Rose Ave OWNER: James/Regina Mayhan

TO: Daniel Hoffman General, CONTRACTOR

IN ACCORDANCE WITH PARAGRAPH NUMBER 15 OF REAL PROPERTY IMPROVEMENT AGREEMENT (Contract), DATED June 19, 2005, THE UNDERSIGNED OWNER HEREBY DIRECTS THE ABOVE-NAMED CONTRACTOR TO MAKE THE FOLLOWING CHANGES IN THE WORK WRITE-UP SPECIFICATIONS AND/OR PLANS, AFTER RECEIVING WRITTEN APPROVAL BY THE HOUSING REHABILITATION SPECIALIST:

Change item 5B of WWU attached to Real Property Improvement Agreement. See attached Contractor detailed proposal for itemized breakdown of additional changes and costs. The proposal was submitted per owner's request.

This Change order must be signed by the Housing Rehabilitation Specialist, the property owner(s) and contractor before the contractor begins these repairs.

The undersigned contractor hereby agrees to perform the above-described work for the sum of: $ Ø.

The above changes also require an extension to the completion date specified in the Real Property Improvement Agreement referred to above. Therefore, we agree to extend the completion date to N/A.

Regina Mayhan
Property Owner's Signature Date

Property Owner's Signature Date

Dan Hoffman 3-25-05
Contractor's Signature Date

Housing Rehab Spec. Signature Date 3-2

Orig – Financial Specialist
Yellow – Rehab Specialist
Revised 03/27/01

Pink – Property Owner
Golden - Contractor

Proposal

Daniel R. Hoffman,
General Contractor License #644057
132 N. Santa Ana Ave.
Modesto Ca. 95354

Home: 209-575-3748
Cellular: 209-605-2668

Date:03/22/05

Proposal Submitted To: Darin Sims
For
James And Regina Mayhan

Work to be performed at :
613 Rose Ave.
Modesto CA.

PROJECT :

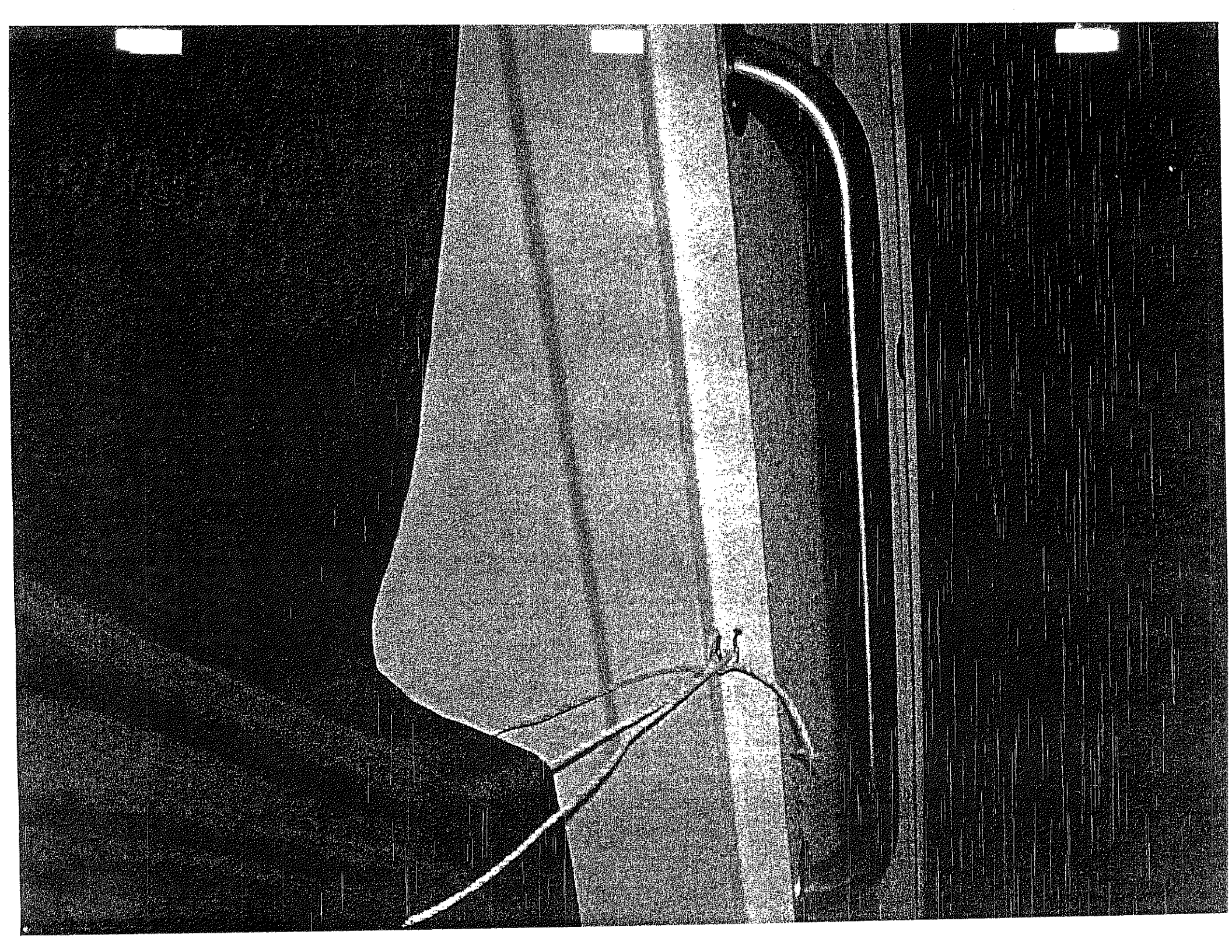
1) Rebate for changing from cast iron tub and 4x4 ceramic tile. Labor and materials **$1,500.00**
2) New tub and enclosure Labor and materials **$700.00**
3) Framing to include firing block wall, plumbing wall, labor and materials **$500.00**
4) Plumbing to include install P trap to code, waste overflow, lower shower neck for new enclosure, provide and install new fixtures. Labor and materials **$250.00**
5) Replace broken electrical box in adjoining room and move electrical box on fired out wall. Labor and materials **$50.00**

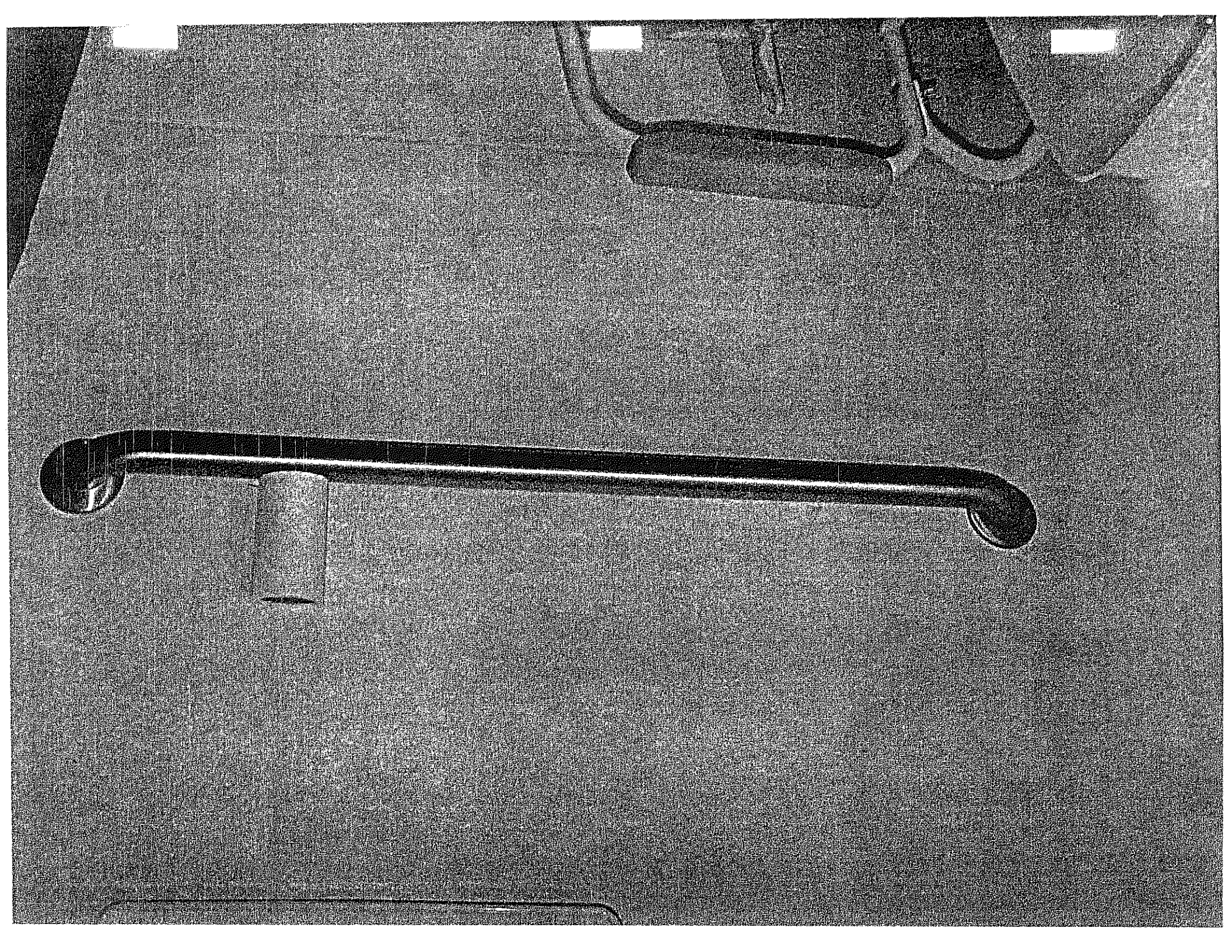
Total cost for labor and materials $4,500.00

Daniel R. Hoffman.

same cost as 5-B

Mar 25 05 01:43p Daniel Hoffman 209-525-9600 p.2





2007 Means Residential Repair & Remodeling Costs

Provide and install a 12" grab bar .....$ 32.67

JOSEFINA MORENO 416 MAPLE STREET

4 1. A new 30 year composition roof with galvanized rain gutters and downspout was installed.

4 2. The floor furnace was removed and frame-in. A new 2 1/2 –Ton roof mounted dual pack unit was installed.

CITY of MODESTO

NICK KELLER
Senior Building Inspector

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT
BUILDING INSPECTION
1010 TENTH STREE, SUITE 3100
P.O. BOX 642 • MODESTO, CA 95353
(209) 577-5232 • FAX (209) 571-5135
24-HOUR RECORDER (209) 571-5881
INSPECTORS' PHONE HOURS: 7-7:30 AM & 5-5:30 PM

PAUL KELLY 1517 VICTOR WAY

BATHROOM:

4 a) A new 42" x 42" shower stall with sliding hand held shower head was installed.

4 & N b) A new handicap toilet, 24" and 18" grab bar was installed along with a toilet paper holder.

4 c) 18" x 42" vanity cabinet with cultured marble top And bowl. New chrome single lever faucet was installed.

4 d) New 2-'10" x 6-'8" hollow core, paint grade door with solid wood style was installed.

4 e) The bathroom was painted semi-gloss.

BEDROOM:

4 a) New 2-'10" x 6-'8" hollow core, paint grade door with solid wood style was installed.

4 b) The bedroom was painted flat latex paint color.

MECHANICAL:

4 a) There was a new furnace installed in the attic with

4 a new light fixture in the attic with a switch to control.

4 There were new HVAC vents installed in the kitchen, dining room, and living room.

4 The wall A/C unit was removed and the opening

4 frame-in.

CITY of MODESTO

NICK KELLER
Senior Building Inspector

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INSPECTORS' PHONE HOURS: 7-7:30 AM & 5-5:30 PM

1B **Demolition**

Provide all labor and material to complete as follows:

Remove and dispose of existing shower stall including pan and mixer valve, vanity, vanity cabinet and toilet. Cutback sheetrock on existing walls to be framed-in at doorways and remove non-bearing bathroom wall as per plans.

$ 460.00

2B **No-Dam Shower Bathroom Conversion**

Provide all labor and material to complete as follows:

Remove floor covering install approved material to achieve a 1/4 inch per foot slope to drain there is to be no greater than 3/8 inch difference between finished floor height of bathroom and bedroom. Install 2"x6" backing (location to be centered 36" above finish floor height) along all sides of shower. And toilet. Install new shower drain in shower area, connected to existing building drain. Install "Delta Model #602 mixer valve and Model #RP6212MS slide "Bar Hand Held shower head" or equal. Install 42" X 42" hot tar shower pan consisting of 4 layers asphalt mopped type 4 fiberglass ply sheet or approved equal, turned up walls 12 inches. Install new cement-mortar-backed standard 6" x 6" ceramic tiles on floor. Wall areas to receive tile, install Durock, Wonder Board or the equivalent, taped and sealed (vapor barrier) to receive tile. Seal walls with a coat of thin-set and install standard $4^{1/4}$" x $4^{1/4}$" ceramic tiles set in thin-set to six (6) feet high above drain on the two walls of shower extending two feet from inside wall of shower including a self-draining ceramic soap dish. Grout joints with white latex-portland cement. Owner has choice of standard tile colors. Note: Toilet base should be at least ¼" above the flood plane of finish floor.

$ 3266.00

3B **Relocate Toilet and Vanity**

Provide all labor and material to complete as follows:

Relocate toilet and vanity waste and supply lines as per plans

Rough-in waste and supply lines as per code. Clean-outs are to be installed according to code. Note: All waste lines are to be tied into existing vents and supported horizontally.

$ 875.00

4 B **Toilet**

Provide all labor and material to complete as follows:

Install new white vitreous china (Class A) ADA Handicap complying 1.6 GPF elongated toilet, new polished chrome plated brass angle stop and water supply, new mounting bolts, closet flange, new wax ring and new toilet seat.

Pg #2 of Paul L. Kelly ww-up Bid Sheet
1517 Victor

$ 375.00

BETTY CASAUS 1613 GALVEZ AVE.

Y 1. Replaced the dry rotted eves.
Y 2. A new 30 year composition roof with 60 liners feet of galvanized gutters and (4) downspouts was installed.

Legend
Y - Yes
N - NO

CITY of MODESTO

NICK KELLER
Senior Building Inspector

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INSPECTORS' PHONE HOURS: 7:30 AM & 5:30 PM

JUANITA J. MOFFITT 3229 PARA DR.

EXTERIOR:

y a) A new 30 year composition roof was installed.

KITCHEN:

y a) New upper and base cabinets, 1/16" thick pressure
y melamine laminate plastic counter top was installed.
y Existing sink and faucet was reinstalled.
y New 30" white enameled steel range hood, garbage disposal, and dishwasher was installed.

y b) New vinyl sheet floor covering was installed.

DINING ROOM:

y a) New vinyl sheet floor covering was installed.

CITY of MODESTO

NICK KELLER
Senior Building Inspector

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INSPECTORS' PHONE HOURS: 7-7:30 AM & 5-5:30 PM

MARY THORNE 305 LONGFELLOW AVE.

HALF BATHROOM:

Y a) A new GFCI protection was installed.

Y b) A new 30" vanity cabinet and ceramic tile countertop was installed with "Kohler" ~~self rimming/deck mounted~~ white cast iron basin with "American Standard" faucet.

Y → SEE WW-up Pg 5 CULTURED MARBLE PRE-CAST SINK/COUNTERTOP.

Y c) Half bath was painted semi-gloss.

Y d) New sheet vinyl floor covering was installed.

HALL BATHROOM:

Y a) New light switch was installed to control the incandescent light fixture.

Y b) New GFCI protection was installed.

Y c) New "Nuton" ceiling exhaust fan with switch was installed.

d) A new 2-'10" x 1-'0" dual glazed, aluminum frame window was installed. VYNAL UPGRADE 2x3'

Y e) New color coat was installed around the new window.

Y f) New 2-'4" x 6-'8" hollow core, paint grade, solid wood styles rails door was installed and stain to match the hall doors.

Y g) A new "Kohler" 60" x 32" x 16" white cast iron tub with "American Standard" pressure balance faucet was installed.

h) New ceramic tile surround was installed. CULTURED MARBLE.

Y i) A set of tempered obscured glass sliding tub doors with aluminum frame was installed.

Y j) A new "American Standard" white, cadet toilet was installed.

Y k) A new 36" vanity cabinet with cultured marble counter top with bowl. New chrome single lever faucet was installed.

Y l) A new recessed medicine cabinet was installed.

Y m) 1-18" towel bar, 1-30" towel bar was installed behind the toilet, and 1-36" towel bar on the wall opposite side of the toilet and vanity wall was installed.

Y n) The bathroom was painted semi-gloss.

Y o) New sheet vinyl floor covering was installed.

CHECK SWEEP WEATHERSTRIP @ REAR DOOR.

CITY of MODESTO

NICK KELLER
Senior Building Inspector

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT
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OWNER: Mary Thorne
JOB SITE ADDRESS: 305 Longfellow A

ITEM NO. DESCRIPTION OF WORK TO BE PERFORMED

3 Reset Toilet

Provide all labor and material to complete as follows:

In ½ bath, re-install existing toilet on new wax ring and closet flange, new mounting bolts with n ew polished chrome plated brass angle stop, and new nylon flexible water supply.

$ 100.

13B Vanity Cabinet with Integral Basin and Counter Top

Provide all labor and material to complete as follows:

In hall bathroom, install 36 inch **custom manufactured** vanity cabinet. Cabinet to be made of solid hardwood birch fronts and hardwood birch veneer doors, drawer facing, and end panel complete with drawers and storage below. Doors and drawer fronts to be inverse beveled for opening handle. Owner has choice of stain color and high gloss/satin finish.

Install a 37"x 22"one piece counter top and basin made of cultured marble. Owner to select basin size and style, and drip or non-drip edge.
Note – faucet mounts on 4" centers.

Install an AMERICAN STANDARD – Reliant+ Lavatory Faucet, #1495.400 in polished brass finish, and p-trap, drain tubes, angle stops, and nylon flexible water supply tubing.

Install water supply and drain lines to new vanity location.

$ 700.

14B Vanity Cabinet with Basin and Tile Counter Top

Provide all labor and material to complete as follows:

In ½ bath, install a 30 inch **custom manufactured** vanity cabinet. Cabinet to be made of solid hardwood birch fronts and hardwood birch veneer doors, drawer facing, and end panels complete with drawers and storage below. Doors and drawer fronts to be inverse beveled for opening handle. Owner has choice of stain color and high gloss/satin finish. Counter top to be 4 l/4" x 4 l/4" DAL, Group #1 ceramic tiles with trim cap set in mortar and two (2) tile-high back and end/sidesplash. Owner has choice of tile colors.

At vanity counter top, install a KOHLER, Farmington, K-2905-4, 19 1/4" x 16 ¼" self rimming/deck mount white enameled cast iron basin with overflow, including an AMERICAN STANDAR – Reliant+ Lavatory Faucet, #1495.400 in polished brass finish, and pop-up drain, p-trap, drain tubes, angle stops, and nylon flexible water supply tubing.

$ 700.

15B Medicine Cabinet

Provide all labor and material to complete as follows:

In hall bathroom centered over basin, install a mirrored medicine cabinet. Medicine cabinet to be recessed in wall. Owner's choice of medicine cabinet not to exceed $85.

$ 150.

AA

MEMO 4/24/07

I called Ms. Connie Pierson at 2220 Jeanine Dr. to set-up appointment for the IG inspection. She has a doctor appointment today and Wednesday was not a good day, so I ask her about Thursday afternoon, she said she would call if Thursday would be a good day. Ms. Pierson has rheumatoid arthritis so it's hard for her to get around.

Gregory Williams
Housing Rehab Specialist II

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-296

A RESOLUTION AUTHORIZING THE PURCHASE OF REPLACEMENT PLAY EQUIPMENT AND ENGINEERED WOOD FIBER SAFETY SURFACING FOR PIKE PARK AT AN ESTIMATED COST OF $46,697 AND AUTHORIZING STAFF TO HIRE A CONTRACTOR TO INSTALL THE ENGINEERED WOOD FIBER AND SUPERVISE THE PARK PARTNER VOLUNTEER EFFORT TO INSTALL THE NEW PLAY EQUIPMENT AT AN ESTIMATED COST OF $7,450.00, FOR A TOTAL PROJECT COST OF $54,147.

WHEREAS, in 2005, winter storms damaged trees in Pike Park resulting in large limbs falling on the existing play equipment and damaging the play equipment sufficiently to require that it be removed, and

WHEREAS, a claim for damage was submitted to insurance and a check was received in the amount of $20,146.00 which has been deposited into account number 1400-310-M185-8122 to partially fund the replacement of the play equipment, and

WHEREAS, the remaining funding will come from CDBG Public Facility and Improvement account #1130-320-3236, and

WHEREAS, the Pike Park project involves the replacement of storm-damaged play equipment and is using volunteers as part of the City's Park Partners program, and

WHEREAS, under Article XIII. Fiscal Administration, Section 1307, the City Charter allows that park or parks playground projects otherwise subject to the public bidding requirements of this section that involves any donated labor and/or material to be excluded from the normal bidding process, and

WHEREAS, this project involves the donated labor by community members for the installation of the play equipment and meets the requirements of this section, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the purchase of replacement play equipment and engineered wood fiber safety surfacing for Pike Park at an estimated cost of $46,697.

BE IT FURTHER RESOLVED that staff is hereby authorized to hire a contractor to install the engineered wood fiber and supervise the Park Partner volunteer effort to install the new play equipment at an estimated cost of $7,450.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-297

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF RUBBER SIDEWALK MATERIALS AND ACCESSORIES MADE FROM CALIFORNIA WASTE TIRES FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, SOLID WASTE MANAGEMENT DIVISION AND THE PUBLIC WORKS DEPARTMENT, FORESTRY DIVISION FOR A THREE (3) YEAR AGREEMENT, FOR AN ESTIMATED TOTAL COST OF $100,650, OF WHICH $51,300 IS GRANT FUNDED.

WHEREAS, the California Integrated Waste Management Board (CIWMB) offers grants to communities to encourage the use of products made from recycled rubber extracted from California waste tires, and

WHEREAS, on December 14, 2004, by Resolution No. 2004-669, the Council authorized the City Manager to submit applications and grant related documents, accept awards and amend the annual budget for all grants offered by the CIWMB, and

WHEREAS, the City of Modesto was awarded a $51,300 grant from CIWMB to purchase and install 11,400 square feet of rubber sidewalks and

WHEREAS, the City of Modesto will match the grant funds with approximately $49,000 to be pooled from the Parks, Recreation and Neighborhoods Department, Solid Waste Division and the Public Works Department, Forestry Division to be spread out over the three (3) year grant cycle, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Bids for the purchase of rubber sidewalks and accessories made from California waste tires and contain no tire buffings will conform to code, and

WHEREAS, funds are budgeted and available in accounts 0410-355-4436-0237, 310-355-4402-0237 and 0700-480-4724-0360 for the purchase of rubber sidewalk materials and accessories in Fiscal Years 06/07, 07/08 and 08/09,

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

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of rubber sidewalk materials and accessories made from California waste tires and contain no buffings, for a three (3) year agreement at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-298

A RESOLUTION APPROVING A REQUEST FOR PROPOSAL (RFP) APPLICATION FOR THE CITY OF MODESTO TO APPLY TO BECOME A "HOST CITY" FOR THE THIRD-ANNUAL AMGEN TOUR OF CALIFORNIA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE APPLICATION AND RELATED DOCUMENTS.

WHEREAS, in February 2007, the Amgen Tour of California swept down the California Coast for eight days and generated over $100 million of economic impact to the 12 host cities and the state with over one billion marketing impressions created worldwide, and

WHEREAS, the Amgen Tour of California has posted their Request for Proposal (RFP) application for response from cities who wish to be considered as a "Host City" for the third Annual Amgen Tour of California in February 2008, and

WHEREAS, Modesto is centrally located and has access to bike paths and trailways both toward the west and east as well as along the north-south corridors, and

WHEREAS, this would be a unique and exciting opportunity for the city to showcase its accommodations and amenities as well as produce a revenue enhancing project for the community, and

WHEREAS, the City of Modesto has the desire to become a "Host City" for the Amgen Tour of California in February 2008, and

WHEREAS, the City of Modesto has read the requirements exhibited in Amgen's RFP and agrees to abide by the requirements listed within the RFP,

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

1. The filing of an RFP for the City of Modesto to become a "Host City" for the 2008 Amgen Tour of California is hereby approved.

2. The City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said RFP by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-299

A RESOLUTION APPROVING A HOME LOAN IN THE AMOUNT OF $785,307 TO THE HOUSING AUTHORITY OF STANISLAUS COUNTY, TO INCREASE THE NUMBER OF HOME UNITS IN THE VILLAGE ONE TOWN CENTER PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LOAN AGREEMENT AND RELATED DOCUMENTS.

WHEREAS, in fiscal year 2002-2003, the City of Modesto allocated $245,000 to the Housing Authority of Stanislaus County (Housing Authority) to fund project pre-development costs, and

WHEREAS, in response to the neighborhood meetings, the Housing Authority created a design committee with residents from Village One, and City and Housing Authority staff, and

WHEREAS, the City has pledged $933,600, 80% of that year's HOME funds, for the construction of this project, and

WHEREAS, on October 26, 2004, by Resolution No. 2004-564, the City Council approved an additional allocation of $1,030,791 from Fiscal Year 2004-2005 HOME funds to the Housing Authority of Stanislaus County for the development of the Village One multi-family housing project, and

WHEREAS, on February 5, 2007, Bill Fagan, Executive Director for the Housing Authority of Stanislaus County, submitted a letter to the City of Modesto, Parks, Recreation and Neighborhoods Department (PRND) requesting additional HOME funds for the Village One Town Center Project, and

WHEREAS, the letter confirmed that the Housing Authority's Village One Town Center project is a twenty unit development consisting of ten 3-bedroom units and ten 2-bedroom units, and that the total development costs for the project are currently estimated at $7,246,819 or $362,341 per unit, and

WHEREAS, after reviewing the project Operating Income and Expense Projection, City staff requested that the Housing Authority increase the number of HOME units from 8 to nineteen, giving the City eleven additional affordable housing units, and

WHEREAS, if this funding is not allocated before July 31, 2007, HUD may elect to re-capture the funds, and

WHEREAS, the Housing Authority initially requested $842,802, but City staff is recommending allocating $785,307, as this is the maximum amount of subsidy allowed by HUD with the proposed affordability mix and to meet the commitment level required by HUD, and

WHEREAS, the Citizens Housing and Community Development Committee met on March 5, 2007, and March 27, 2007, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a HOME loan in the amount of $785,307 to the Housing Authority of Stanislaus County, to increase the number of HOME units in the Village One Town Center project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement and related loan documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-300

A RESOLUTION AMENDING THE FY 06-07 OPERATING BUDGET TO APPROPRIATE $785,307 IN FY 05-06 HOME ENTITLEMENT FUNDS FROM 1170-800-8000-8003, HOME FUND RESERVE, TO 1170-320-3259-0497, DIRECT LOANS, TO FULLY FUND THE VILLAGE ONE TOWN CENTER PROJECT.

WHEREAS, in fiscal year 2002-2003, the City of Modesto allocated $245,000 to the Housing Authority of Stanislaus County (Housing Authority) to fund project pre-development costs, and

WHEREAS, in response to the neighborhood meetings, the Housing Authority created a design committee with residents from Village One, and City and Housing Authority staff, and

WHEREAS, the City has pledged $933,600, 80% of that year's HOME funds, for the construction of this project, and

WHEREAS, on October 26, 2004, by Resolution No. 2004-564, the City Council approved an additional allocation of $1,030,791 from Fiscal Year 2004-2005 HOME funds to the Housing Authority of Stanislaus County for the development of the Village One multi-family housing project, and

WHEREAS, on February 5, 2007, Bill Fagan, Executive Director for the Housing Authority of Stanislaus County, submitted a letter to the City of Modesto, Parks, Recreation and Neighborhoods Department (PRND) requesting additional HOME funds for the Village One Town Center Project, and

WHEREAS, the letter confirmed that the Housing Authority's Village One Town Center project is a twenty unit development consisting of ten 3-bedroom units and ten 2-

bedroom units, and that the total development costs for the project are currently estimated at $7,246,819 or $362,341 per unit, and

WHEREAS, after reviewing the project Operating Income and Expense Projection, City staff requested that the Housing Authority increase the number of HOME units from 8 to nineteen, giving the City eleven additional affordable housing units, and

WHEREAS, if this funding is not allocated before July 31, 2007, HUD may elect to re-capture the funds, and

WHEREAS, the Housing Authority initially requested $842,802, but City staff is allocating $785,307, as this is the maximum amount of subsidy allowed by HUD with the proposed affordability mix and to meet the commitment level required by HUD, and

WHEREAS this funding is available in the HOME Fund Reserve, 1170-800-8000-8003, and

WHEREAS, the Citizens Housing and Community Development Committee met on March 5, 2007, and March 27, 2007, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 06-07 operating budget to appropriate $785,307 in FY 05-06 HOME Entitlement Funds from 1170-800-8000-8003, HOME Fund Reserve, to 1170-320-3259-0497, Direct Loans, to fully fund the Village One Town Center project.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-301

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO.

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION 1. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification of City Engineer. The job specification for this classification is being created to assist the Public Works Director in the planning, organizing, coordinating, and direction of the engineering programs; to coordinate the engineering aspects of public works land development activities; and to provide highly complex technical staff assistance to the City Manager and other department directors. The job specification for the classification of City Engineer, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after May 22, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY ENGINEER

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To assist the Public Works Director, in the planning, organizing, coordinating and direction of the engineering programs; to coordinate the engineering aspects of public works land development activities; and to provide highly complex technical staff assistance to the City Manager and other department directors.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Public Works Director.

Exercises direct supervision over professional, technical and clerical staff.

Exercises responsible charge of assigned engineering, and related functions.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Performs the responsibilities of the City Engineer.

Approves and signs all tentative and final subdivision maps.

Plans, organizes, coordinates and directs through subordinate supervisors the work of the development services division.

Coordinates and assists subordinate supervisors in evaluating development proposals; responds and comments on impacts and mitigation of project impacts and communicates staff's comments to other agencies, departments, developers, Planning Commission, Boards, and/or City Council as necessary.

Develops and maintains City standard specifications.

Develops and directs the implementation of goals, objectives, policies, procedures and work standards for the division.

Develops and implements management systems, procedures, and standards for program evaluation.

Essential Functions: (Continued)

Assists in the preparation of a variety of studies and reports relating to current and long-range City capital improvement needs and develops specific proposals to meet them; provides technical assistance to staff.

Plans and directs project management activities for a variety of capital improvement projects, including the preparation of plans, specifications and designs; estimates, schedules, inspections and project monitoring.

Manages the review and oversees the inspection of public works improvements constructed by private developers.

Confers with developers and others to resolve issues relating to public improvement requirements for subdivisions

Directs the preparation and administration of the division's budget.

Assists with the preparation of operating and capital improvement budgets and control of expenditures.

Directs the selection, supervision and work evaluation for division staff and provides for their training and professional development.

Participates in recommending the appointment of personnel; provides or coordinates staff training; works with employees to correct deficiencies; implements discipline procedures; establishes performance standards and evaluates the performance of subordinate personnel.

Assists in planning, directing, supervising, and coordinating departmental and divisional operations; assigns work activities, projects and programs; monitors work flow; reviews and evaluates work products, methods and procedures.

Coordinates the work of the division with that of other divisions.

Monitors developments related to public works engineering, evaluates their impact on City operations and implements policy and procedure improvements.

Ensures adherence to codes, applicable laws, regulations and guidelines relating to engineering activities.

Appears before City Council, Boards, Commissions, Committees, and numerous civic organizations representing the Department.

Coordinates Department activities with those of other departments and outside agencies and organizations; provides staff assistance to the Deputy Director of Public Works (Traffic & Development Services); prepares, reviews, and presents staff reports and other necessary correspondence.

Essential Functions: (Continued)

Coordinates, assists, and manages functions of other divisions within Public Works Department and assists the Director and Deputy Director

Assists in orderly management of land development and growth of the City and its infrastructure requirements.

Maintains regular contact with consulting engineers, consulting project managers, construction project engineers, City, County, State, and Federal agencies, professional and technical groups, and the general public regarding Public Works' Department activities and services.

Prepares a variety of correspondence general special reports.

Ensures adherence to codes, regulations, and guidelines related to engineering and construction activities.

Marginal Functions:

Performs related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of civil engineering as applied to the field of municipal public works, including planning, development, design, and construction.

Theories, principles, techniques and equipment used in construction.

Federal and State regulations, rules, and requirements.

Legal guidelines for public works engineering activities.

Technical, legal, and financial problems involved in the conduct of a municipal public works program.

Principles and practices of civil engineering, including project management, design, contract administration, and construction management; reports and recommendations relating to proposed public works projects.

Procedures, materials, equipment, and methods used in all areas of public works activities.

Principles and practices of budget development, administration, and expenditure control.

Administrative principles and methods, including goal setting, program development and implementation, and employee supervision.

Ability to

Manage, direct and continually improve the development services program.

Demonstrate leadership and provide customer service.

Select, motivate and evaluate staff and provide for their training and professional development.

Develop, interpret, and implement goals, objectives, policies, procedures, work standards and internal controls.

Exercise sound, independent judgment within general policy guidelines.

Plan, organize, direct, and coordinate a variety of functional specialties with overlapping work areas.

Analyze complex technical and administrative problems, evaluate alternatives, and implement creative but sound alternatives.

Prepare and present clear, concise, competent reports, correspondence, and other materials both orally and in writing.

Coordinate the activities of a number of sections within the Department.

Assist with the preparation of divisional operating and capital improvement budgets and control budget expenditures.

Manage performance of a variety of technical and engineering research and prepare reports of findings.

Effectively manage assigned areas of the departmental program.

Establish and maintain cooperative relationships with those contacted during the course of work.

Effectively utilize personal computers, standard office software and specialized engineering and project management software.

Willingness and ability to work extended hours as required.

Experience and Training Guidelines

Any combination of experience and education that would provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience

Five years of increasingly responsible professional civil engineering experience, including at least two years in a supervisory or administrative capacity in public works design, project management work, and development services..

Education

Equivalent to a Bachelor's Degree from an accredited college or university with major coursework in civil engineering or a related field.

License or Certificates

Possession of a valid California Professional Engineer Certificate and/or a Certificate of Registration as a Civil Engineer issued by the California State Board of Registration for Professional Engineers is required. If licensed in another state, candidates will have six (6) months to obtain California Registration.

Possession of, or ability to obtain, an appropriate, valid California Drivers License.

WORKING CONDITIONS

Environmental Conditions:

Work is performed mostly in an office setting. Some outdoor work is required in the inspection of various land use developments, construction sites, or public works facilities.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for standing, walking or sitting for prolonged periods of time; traveling to and from sites and attending meetings. Must be physically capable of moving about on construction work sites and under adverse field conditions.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-302

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2005-602 TO REVISE THE CLASS RANGE TABLE FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ESTABLISH A SALARY RANGE FOR CITY ENGINEER AT SALARY RANGE 2452.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2005-602, which approved the Class Range Table for Unrepresented Management and Confidential Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2005-602. Exhibit "A" entitled, "City of Modesto Class Range Table Unrepresented Management and Confidential Non-Sworn Classes Effective December 6, 2005," attached to Resolution No. 2005-602, is hereby amended as shown on the amended **Exhibit "A"** entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective December 6, 2005," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" establishes the salary range for City Engineer at range 2452.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after May 22, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **May 22, 2007**

RANGE	TITLE
2419	
2420	Executive Secretary – City Manager's Office
2421	
2422	Office Supervisor - Personnel
2423	
2424	
2425	Executive Assistant Paralegal
2426	
2427	
2428	
2429	
2430	
2431	Equal Opportunity Analyst Equal Opportunity Officer
2432	
2433	
2434	Senior Auditor
2435	
2436	
2437	Deputy City Attorney I
2438	

RANGE	TITLE
2439	Employee Relations Specialist
2440	
2441	Deputy City Attorney II
2442	
2443	Senior Deputy City Attorney I
2444	Risk Manager
2445	
2446	
2447	
2448	
2449	Senior Deputy City Attorney II
2450	
2451	
2452	**City Engineer** Deputy Chief Information Officer Deputy Director – Cultural and Enterprise Services Deputy Director of Finance Deputy Director of Personnel Deputy Director of Public Works – Engineering Deputy Director of Public Works – Operations Deputy Director – Recreation and Neighborhoods
2453	
2454	
2455	Assistant City Attorney

FINANCE CHECKLIST

MAY 07 2007
Jerry

To: Finance Department

From: Barbara Santos (Name) 75466 (Extension) Personnel (Department)

Subject: Adoption of a resolution revising the Position Classification Plan for the City of Modesto to create the classification of City Engineer. Adoption of a resolution to revise the Class Range Table for Unrepresented Management and Confidential Non-Sworn Classes to establish the salary range for City Engineer at range 2452.

Attachments:

[X] Draft Bluesheet: Are the account numbers and dollar amounts listed?

[X] Draft Staff Report: Are the account numbers and dollar amounts listed in the Fiscal Impact section?

[ ] Draft "Request for Budget Adjustment" Form. Is the budget adjustment form completed for any transfer(s) required for this staff report?

[ ] Draft Fiscal Resolution. Are the account numbers and dollar amounts listed in the resolution for any requests that amend the budget or approve an appropriation transfer (i.e., increase revenue and/or appropriation).

Approved by:

Tommy Hirota — Budget Analyst — 5-7-07 — Date

Accounting Manager — 5/8/07 — Date

Finance Director — 5/8/07 — Date

When approved, contact Anna Gallego (Name) 75408 (Ext)

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-303

A RESOLUTION AUTHORIZING THE CITY OF MODESTO'S PARTICIPATION IN THE 2010 WESTERN STATES POLICE AND FIRE GAMES AND COMMITMENT OF THE EQUIVALENT OF ONE FULL-TIME POLICE SERGEANT POSITION, OR TWO PART-TIME RETIRED POLICE SERGEANT POSITIONS, FOR ONE YEAR AS GAMES COORDINATOR(S) AND ANOTHER PART-TIME POSITION, YET TO BE IDENTIFIED, FOR ABOUT SIX MONTHS TO ASSIST WITH THE 2010 WESTERN STATES POLICE AND FIRE GAMES AT AN ESTIMATED JUNE 2008 COST OF $109,872-$201,231; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, the 2010 Western States Police and Fire Games Committee is soliciting "Letters of Intent" from cities interested in hosting this event, and

WHEREAS, the Modesto Convention and Visitors Bureau (CVB) is submitting a "Letter of Intent" for the city of Modesto and surrounding communities, and

WHEREAS, the host committee must obtain full government commitment by obtaining resolutions or letters by June 2007, and

WHEREAS, the CVB is requesting the partnership and assistance of the Modesto Police, Fire and Parks Recreation and Neighborhoods Department in hosting this event, and

WHEREAS, the 2010 Western States Police and Fire Games will bring great recognition, positive media coverage and huge economic impact to Modesto and the county, and

WHEREAS, it will also allow the City an opportunity to recruit from the very best and most fit officers and firefighters from the surrounding states, and

WHEREAS, the City's participation in this event will include a commitment of the equivalent of one full-time Police Sergeant , or two part-time retired Police Sergeant

positions for one year as Games Coordinator(s) and another part-time position, yet to be identified, for about 6 months to work on the 2010 Western States Police and Fire Games, and

WHEREAS, the 2010 Western States Police and Fire Games will generate General Fund revenue through the Transient Occupancy Tax and sales tax as well as rental revenue from city-owned facilities such as the Modesto Centre Plaza and John Thurman Field, and

WHEREAS, profits from the event will be donated back to local non-profit organization, and

WHEREAS, at its meeting held on April 2, 2007, the Safety and Communities Committee recommended forwarding this item to full Council for consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the the City of Modesto's participation in the 2010 Western States Police and Fire Games and commitment of the equivalent of one full-time Police Sergeant position, or two part-time retired Police Sergeant positions for one year as Games Coordinator(s) and another part-time position, yet to be identified, for about six months to assist with the 2010 Western States Police and Fire Games at an estimated June 2008 cost of $109,872-$201,231.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-304

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT TO DOCTORS JOCELYN E. ROLAND AND PHILIP S. TROMPETTER OF MODESTO, CA FOR PSYCHOLOGICAL SERVICES FOR THE POLICE DEPARTMENT FOR A FIVE (5) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL 2007/08 COST OF $60,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, March 6, 2007, Council approved Resolution No. 2007-158 authorizing the Request for Proposal for Psychological Services for the Police Department, and

WHEREAS, this independent contractor services agreement will provide counseling/therapy 24-hours a day, participation in Modesto Police SWAT activations and hostage negotiations, consultation on cases with the Investigative Services Division and Administration, and provides crisis debriefing, and

WHEREAS, the Modesto Police Officers Association Memorandum of Understanding requires these services be provided to full-time sworn police personnel, and

WHEREAS, the Modesto Police Department would like to continue to provide these services, and

WHEREAS funds will be included in the Police Department 2007/08 Operating Budget and available in the following account for psychological services:

01000190-1921-0235 $60,000 Psychological Services

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract to Doctors Jocelyn E. Roland

and Philip S. Trompetter of Modesto, CA for the furnishing of Psychological Services for the Police Department for a five (5) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual 2007/08 cost of $60,000,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-305

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR PROPOSALS (RFP) FOR THE PURCHASE OF IN-CAR CAMERAS (SOFTWARE AND HARDWARE) FOR THE MODESTO POLICE DEPARTMENT, FOR A TOTAL ESTIMATED COST OF $199,500.

WHEREAS, many municipalities and other government agencies across the United States have implemented in-car video surveillance programs, and

WHEREAS, based on the success of these deployments, the Modesto Police Department has expressed a growing interest in the benefits of an in-car video program, and

WHEREAS, videos of events could provide evidence of officer and offender actions pre-and post- event, and

WHEREAS, the videos will allow operators from in the field and remote locations such as the Watch Commanders Office, to monitor activities of contacts made by officers in the field, and

WHEREAS, recording will occur when there is a need for directed services or reasonable cause exists that a crime will or has occured, and

WHEREAS, active recordings will be held for a minimum of one year, or longer, and

WHEREAS, video images that are captured due to criminal behavior will be subject to disclosure as outlined in the Government Code (Public Records Act), and

WHEREAS, a draft policy and guidelines document that specifies rules of acceptable usage was developed and will continue to be evaluated and corrected yearly as per CALEA Accreditation standards, and

WHEREAS, on November 9, 2005, a public hearing was held to consider the City of Modesto's 2005/06 expenditures for allocation of $299,591 from the State of California Supplemental Law Enforcement Services Fund (SLESF), and

WHEREAS, Council Resolution No. 2005-564 approved the allocation of $99,500 for in-car videos, and

WHEREAS, on October 10, 2006, a public hearing was held for the 2006/07 SLESF expenditures for allocation of $405,053, and

WHEREAS, Council Resolution No. 2006-650 approved the allocation of $100,000 for the purchase of in-car cameras as part of the expenditures, and

WHEREAS, the Safety and Communities Committee at their May 7, 2007 meeting reviewed and approved staff's recommendation for the purchase of in-car cameras,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal Request for Proposals (RFP) for the purchase of in-car cameras (software and hardware) for the Modesto Police Department, for a total estimated cost of $199,500.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to call for public competitive sealed proposals for the purchase of in-car cameras (software and hardware) to be opened in the Office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed proposals in the time, form, and manner provided by law.

BE IT FURTHER RESOLVED that after the sealed proposals are opened they will be tabulated and analyzed by the Purchasing Division and the Modesto Police Department and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-306

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE SHADE STRUCTURES FOR MODESTO PARKS PROJECT, ACCEPTING THE BID AND APPROVING A $143,813.00 CONTRACT WITH HARRIS BUILDERS, INC., FOR THE PROJECT TITLED "SHADE STRUCTURES FOR MODESTO PARKS (GEORGE ROGERS, STOCKARD COFFEE PARK AND ROBERTSON ROAD PARK)," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled "Shade Structures for Modesto Parks" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Shade Structures for Modesto Parks" were opened at 11:00 a.m. on April 10, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $143,813.00 received from Harris Builders, Inc., be accepted as the lowest responsible bid and the contract be awarded to Harris Builders, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid by Harris Builders, Inc., in the amount of $143,813.00, and hereby awards Harris Builders, Inc., the contract titled "Shade Structures for Modesto Parks."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-307

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH ASSOCIATED ENGINEERING GROUP, INC. TO DESIGN THE CLARATINA AVENUE – MCHENRY AVENUE TO COFFEE ROAD 4-LANE WIDENING IN THE NOT-TO-EXCEED AMOUNT OF $65,508, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Claratina Avenue from McHenry to Coffee is currently a 2-Lane roadway with unimproved shoulders, and

WHEREAS, development in the surrounding area is requiring the City to move forward with the design and right-of-way acquisition for the ultimate expressway, and

WHEREAS, this project will prepare the design for a 4-lane interim facility, and complete maps and legal descriptions to acquire the ultimate right-of-way needed for a future expressway, and

WHEREAS, Capital Improvement Program budgets in future years will allow for right-of-way acquisition, then ultimate construction of the interim roadway, and

WHEREAS, the selection for engineering design services followed the City's selection procedures for professional consultants as outlined in Administrative Directive 3.1, Capital Improvement Services (CIS) staff sent a Request for Qualifications for engineering design services to over 100 civil engineering firms that had previously indicated an interest in providing design services to the City, and

WHEREAS, eight consulting firms were asked to provide a proposal on various projects and were interviewed by City staff, and

WHEREAS, the local firm of Associated Engineering Group, Inc. was considered to be the most qualified for the Claratina Avenue - McHenry Avenue to Coffee Road 4-Lane widening design project, and

WHEREAS, Associated Engineering Group, Inc. prepared the plans and specifications for the 2336 Sylvan Avenue roadway widening, and the Village One Storm Drain Force Main projects, and City staff was pleased with their performance on those projects. In addition, Associated Engineering Group, Inc. completed subdivision improvement plans on the south side of Claratina and are very familiar with the area, and

WHEREAS, this project is very similar to the previous projects and Associated Engineering Group, Inc. has an aggressive schedule to complete the plans and specifications for right-of-way acquisition and construction, and

WHEREAS, Capital Improvement Services staff recommends that an Agreement with the consulting firm of Associated Engineering Group, Inc., be approved to perform the design services as current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with Associated Engineering Group, Inc., in an amount not-to-exceed $65,508 to perform design services of the Claratina Avenue - McHenry Avenue to Coffee Road 4-Lane widening project, and

WHEREAS, Associated Engineering Group, Inc., will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Associated Engineering Group, Inc., in an

amount not-to-exceed $65,508 for design services of the Claratina Avenue - McHenry Avenue to Coffee Road 4-Lane widening project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-308

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH ASSOCIATED ENGINEERING GROUP, INC. TO DESIGN THE MERLE AVENUE ROAD IMPROVEMENT PROJECT AT THE CENTRAL STORM DRAINAGE BASIN IN THE NOT-TO-EXCEED AMOUNT OF $26,747, AND AUTHORIZING THE COMMUNITY FACILITIES DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Merle Avenue remains unimproved on the south side in front of the Village One Central Storm Drainage Basin, and

WHEREAS, this project will install curb, gutter, sidewalk, landscaping and irrigation, and

WHEREAS, in addition, a section of 30" storm drain pipeline will be installed from the Merle/Dermond intersection to the Central Storm Drainage Basin to facilitate the flow of storm water, and

WHEREAS, the selection for engineering design services followed the City's selection procedures for professional consultants as outlined in Administrative Directive 3.1, Capital Improvement Services (CIS) staff sent a Request for Qualifications for engineering design services to over 100 civil engineering firms that had previously indicated an interest in providing design services to the City, and

WHEREAS, eight consulting firms were asked to provide a proposal on various projects and were interviewed by City staff, and

WHEREAS, the local firm of Associated Engineering Group, Inc. was considered to be the most qualified for the Merle Avenue Road Improvement project at the Central Storm Drainage Basin design project, and

WHEREAS, Associated Engineering Group, Inc. prepared the plans and specifications for the 2336 Sylvan Avenue roadway widening, and the Village One Storm Drain Force Main projects, and City staff was pleased with their performance on those projects, and

WHEREAS, this project is very similar to the previous projects and Associated Engineering Group, Inc. has an aggressive schedule to complete the plans and construction, and

WHEREAS, Capital Improvement Services staff recommends that an Agreement with the consulting firm of Associated Engineering Group, Inc., be approved to perform the design services as current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with Associated Engineering Group, Inc., in an amount not-to-exceed $26,747 to perform design services of the Merle Avenue Road Improvement project at the Central Storm Drainage Basin, and

WHEREAS, Associated Engineering Group, Inc., will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Associated Engineering Group, Inc., in an amount not-to-exceed $26,747 for design services of the Merle Avenue Road Improvement project at the Central Storm Drainage Basin.

BE IT FURTHER RESOLVED that the Community Facilities District Administrator, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-309

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED, "MERLE AVENUE AND MAID MARIANE LANE ROUNDABOUT IMPROVEMENTS," ACCEPTING THE BID OF CUNNINGHAM & SONS, INC., IN THE AMOUNT OF $162,306.50, AWARDING CUNNINGHAM & SONS, INC., THE CONTRACT TITLED, "MERLE AVENUE AND MAID MARIANE LANE ROUNDABOUT IMPROVEMENTS," AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE CONTRACT.

WHEREAS, City staff has reviewed the plans and specifications for the project titled, "Merle Avenue and Maid Mariane Lane Roundabout Improvements," and recommends approval to the City Council, and

WHEREAS, staff applied for, and received, Congestion Mitigation Air Quality (CMAQ) funds for the construction of this roundabout, and

WHEREAS, the bids received for this project were opened on April 3, 2007, and

WHEREAS, staff recommends the bid of $162,306.50 received from Cunningham & Sons, Inc., be accepted as the lowest responsible bid and the contract be awarded to Cunningham & Sons, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled, "Merle Avenue and Maid Mariane Lane Roundabout Improvements," accepts the bid of Cunningham & Sons, Inc., in the amount of $162,306.50, and hereby awards Cunningham & Sons, Inc., the contract titled, "Merle Avenue and Maid Mariane Lane Roundabout Improvements."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-310

A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1 – 6, AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON JULY 10, 2007.

WHEREAS, Resolution No. 88-935, adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, said assessment district was formed in accordance with the "Landscape and Lighting Act of 1972", (Street and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the Streets and Highways Code requires the City Engineer, the person designated by this Council as Engineer of Work for Assessment District No. 1, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, Section 22623 of the Street and Highways Code requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:

a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the assessment district for the fiscal year stated in the annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.

d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by the Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 1 during the fiscal year 2007-08.

2. There are no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6 and that

the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to landscape irrigation systems in the following locations:

a. Street medians in Creekwood Drive

b. Areas adjacent to the access control walls along Creekwood Drive

c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 1 is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 1.

5. On Tuesday, the 10th day of July, 2007, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council

located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the "Landscape and Lighting Act of 1972".

7. The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-311

A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2; AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON JULY 10, 2007.

WHEREAS, Resolution No. 89-460 adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Assessment District No. 2 for the purpose of administering the maintenance of landscaping in the public right of way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units Nos. 1 & 2, and

WHEREAS, said assessment district was formed in accordance with the "Landscaping and Lighting Act of 1972", (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the Streets and Highways Code requires the City Engineer, the person designated by this Council as Engineer of Work for Assessment District No. 2, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, Section 22623 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:

a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the assessment district for the fiscal year stated in said annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.

d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 2 during the fiscal year 2007-08.

2. There are no proposed new improvements or any substantial changes in the existing improvements within the existing Landscape Maintenance

Assessment District No. 2, and the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to landscape irrigation systems in the following locations:

a. Street medians in Creekwood Drive

b. Areas adjacent to the access control walls along Creekwood Drive

c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 2 is located in the County of Stanislaus, within the City limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 2.

5. On Tuesday, the 10th day of July, 2007, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council

located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the "Landscaping and Lighting Act of 1972".

7. The levy and collection of assessments as set forth in this resolution shall follow the procedural and substantive requirements of Proposition 218 pursuant to Article 13D, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-312

Print

A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT TO EXECUTE A CONSTRUCTION CONTRACT WITH WESTERN SUMMIT CONSTRUCTORS, INC., IN AN AMOUNT NOT TO EXCEED $57,333,903, TO CONSTRUCT THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE TWO EXPANSION PROJECT, AND AUTHORIZE A CHANGE ORDER AUTHORITY TO THE MODESTO IRRIGATION DISTRICT GENERAL MANAGER FOR UP TO FIVE PERCENT OF THE CONSTRUCTION CONTRACT AMOUNT, PROVIDED THAT SUCH CHANGE ORDERS HAVE BEEN APPROVED THROUGH THE PROCESS DESCRIBED IN THE AMENDED AND RESTATED TREATMENT AND DELIVERY AGREEMENT

WHEREAS, on October 11, 2005, by Resolution No. 2005-516, the Council of the City of Modesto approved the Amended and Restated Treatment and Delivery Agreement (ARTDA) with the Modesto Irrigation District (MID) that contemplates the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion project, and

WHEREAS, the City of Modesto (City) and Modesto Irrigation District (MID) have been working together for several years planning for the MRWTP Phase Two Expansion project from its existing capacity of 36 million gallons per day (mgd) to 72 mgd, and

WHEREAS, it has been well documented that the MRWTP Phase Two Expansion project is needed to provide existing users with a reliable water source and to keep pace with the City's projected growth, and

WHEREAS, as required by the ARTDA between the City and MID, the City Council, on February 13, 2007, by Resolution No. 2007-125, approved the plans, specifications, and cost estimate for the MRWTP Phase Two Expansion and authorized the MID to solicit bids for its construction, and

WHEREAS, on April 26, 2007, construction bids were received from three pre-qualified general contractors, and

WHEREAS, a review of the bid forms submitted by the two lowest bidders indicates that both forms contain minor irregularities that would require information from the escrow documents submitted as part of the bid process, and

WHEREAS, after a review of those documents, the design engineer, Black & Veatch (B&V) is recommending that the construction contract be awarded to Western Summit Constructors, Inc. (WSCI), and

WHEREAS, Kiewit Pacific Co. has filed a bid protest that alleges that WSCI's bid is flawed and therefore it must be rejected, and

WHEREAS, upon a legal analysis by McCormick-Barstow LLP, Attorneys at Law representing MID, and the recommendations of B&V, MID staff will be recommending to the MID Board that the bid protest of Kiewit Pacific Co. be rejected and that the construction contract be awarded to WSCI, and

WHEREAS, MID staff recommends that the MID General Manager be authorized to execute future change orders in connection with the project in an amount not-to-exceed five percent of the contract price, provided that such change orders have been approved through the process described in the ARTDA, which requires Technical Committee approval for amounts between $5,000-$100,000, and Policy Committee approval for amounts greater than $100,000, and

WHEREAS, the purpose for providing change order authority to the MID General Manager is to help streamline a multi-layered and time consuming approval process, as outlined in the ARTDA, so that decisions may be made in a timely manner, thereby reducing the potential for delay claims from the contractor, and

WHEREAS, On May 8, 2007, by Resolution No. 2007-275, the City Council approved the issuance of bonds by MID for up to $97 million to finance the expected costs of the project, and

WHEREAS, bonds would be issued by MID to front the costs of constructing the facilities, and as with many other aspects of this project, MID will be reimbursed per the ARTDA from the City for such costs once the project's financing structure is in place,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute a construction contract with Western Summit Constructors, Inc., in an amount not to exceed $57,333,903, to construct the Modesto Regional Water Treatment Plant Phase Two Expansion project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes a change order authority to the Modesto Irrigation District General Manager for up to five percent of the construction contract amount, provided that such change orders have been approved through the process described in the Amended and Restated Treatment and Delivery Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-313

A RESOLUTION INITIATING A PROPOSITION 218 PROTEST PROCESS TO ADJUST SEWER RATES, AS RECOMMENDED IN THE "SEWER RATES REPORT" PREPARED BY BROWN AND CALDWELL, TO CONSTRUCT NECESSARY SEWER SYSTEM IMPROVEMENTS, AS IDENTIFIED BY CAROLLO ENGINEERING IN THE "ENGINEER'S REPORT"

WHEREAS, in May 2006, Council directed staff to undertake the necessary steps to initiate implementation of sewer rate increases for the sewer utility, and

WHEREAS, Council took this action based upon a review of sewer system needs and financial obligations, and

WHEREAS, on August 9, 2005 Council adopted Resolution 2005-412 establishing a uniform sewer rate structure, and

WHEREAS, following Council's action, the City established a Sewer Rate Task Force, which included members from various City departments, to oversee an engineering needs assessment and cost of service rate study for the sewer utility, and

WHEREAS, Council approved a contract with Brown and Caldwell to prepare the cost of service rate study analysis for the sewer utility, and

WHERAS Carollo Engineering also completed the Wastewater Master Plans and engineering report of the sewer utility, and

WHEREAS, Carollo's reports, identifies sewer system needs totaling $420.6 Million in June 2006 dollars over the course of the next fifteen (15) fiscal years, and

WHEREAS, the Carollo report allocates fifty eight percent (58%) of these needs to existing customers and the remaining forty-two percent (42%) to future system customers, and

WHEREAS, the *Sewer Rates Report Dated April 10, 2007* prepared by Brown and Caldwell concludes rate increases are needed in order to fund the necessary system improvements, as well as to continue to offer high quality service to sewer utility customers, and

WHEREAS, Brown and Caldwell's proposed rate adjustments would increase rates by varying amounts for the initial adjustment, effective August 1, 2007, and averaging thirty percent (30%) for most single family residential flat-rate customers, and

WHEREAS, Brown and Caldwell also proposes subsequent approximate across-the-board rate increases for single family residential customers effective July 1, 2008, in the amount of forty-five percent (45%), effective July 1, 2009, in the amount of fifteen percent (15%), effective July 1, 2010, in the amount of ten percent (10%), and effective July 1, 2011, in the amount of five percent (5%), and,

WHEREAS, Brown and Caldwell's proposed rate adjustments also increases rates with varying rate adjustments to multi-family, apartments, commercial and industrial customers using a uniform rate policy beginning August 1, 2007 and continuing each subsequent year on July 1 through June 30, 2012, and,

WHEREAS, Brown and Caldwell proposes all schools and churches to be billed at the Commercial Group 1 rates, consistent with Proposition 218 requirements, and,

WHEREAS, the Brown and Caldwell further recommends adopting annual inflationary rate adjustments beginning July 1, 2012, which would be linked to changes in the Consumer Price Index, Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance, and

WHEREAS, the actual rates levied each year would not exceed the adjusted maximum rates in any given fiscal year without further notification of the property owners, and

WHEREAS, in order to enact the proposed rate increases needed to fund system improvements identified by Carollo Engineering the City must conduct a Proposition 218 protest process affording property owners the opportunity to protest the proposed rates (April 10, 2007 Brown and Caldwell Report), and

WHEREAS, the protest process provides for notices to be mailed to each property owner explaining the new rate structure and proposed rate adjustments (Draft Notice of Proposed Sewer Rate Increase and Public Hearing (**Attachment A**), and

WHEREAS, the protest process also requires a public hearing be set for a date not less than forty-five (45) days from the date when protest notices are mailed to property owners, and

WHEREAS, the Finance Committee received the findings and recommendations from Brown and Caldwell and Staff during its meeting on April 11, 2007 and forwarded said findings, recommendations and reports to the full Council for review,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto, that a Proposition 218 Protest process be initiated to adjust rates according to the Brown and Caldwell sewer rates report's proposed increases with varying rate adjustments for Fiscal Year 2007-2008 (dependent upon customer class and current rate) through 2011-2012 to support the funding of the sewer operations and Master Plan capital projects.

BE IT FURTHER RESOLVED that the protest process include automatic rate

adjustments, subject to annual review, beginning July 1, 2012, which would provide for annual rate adjustments linked to changes in the Consumer Price Index, Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance.

BE IT FURTHER RESOLVED that actual rates levied each year will not exceed the adjusted maximum rates in any given fiscal year without further notification of the property owners.

BE IT FURTHER RESOLVED that protest notices be mailed to property owners explaining the new rate structure and proposed rate adjustments and allowing for a protest response.

BE IT FURTHER RESOLVED that a public hearing be set for July 24, 2007 to consider the results of the protest response and to act on the proposed rate adjustments.

BE IT FURTHER RESOLVED that Council will review water rates every three years to determine if further adjustments are warranted

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2007, by Councilmember Hawn who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

City of Modesto
City Clerk
P.O. Box 642
1010 Tenth Street, Suite 6600
Modesto, CA 95353

NOTICE OF PROPOSED SEWER RATE INCREASE and of PUBLIC HEARING

window of #10 envelope

<<Owner Name1>>
<<Address1>>
<<Address2>>
<<Address3>>
<<Address4>>

DRAFT
May 16, 2007 v2

THE CITY OF MODESTO GIVES NOTICE that:

1. The City is proposing to increase sewer rates. The purpose of the proposed increase is to fund operation, maintenance and replacement costs related to providing sewer service to properties within the Modesto Sewer Service Area. The improvements are necessary to maintain, operate, rehabilitate, upgrade and replace existing sewer distribution and treatment facilities as well as all related administrative and incidental costs, including the costs of the hearing shown below and the costs of financing the sewer improvements.

2. The proposed schedule of maximum rates for August 1, 2007 through June 30, 2012 is shown in the table below. If the rate increases are approved, it is proposed that they will commence to be collected beginning with the August 1, 2007 utility bills and will continue to be collected until otherwise modified by the City. The sewer rates will not exceed the maximum amounts shown without another written notice to the property owners. All increases will occur as of July 1 of each subsequent year.

3. Before taking final action on the proposed rate increase, the City Council will hold a **PUBLIC HEARING on Tuesday, July 24, 2007, at 5:30 p.m. in the City Council Chambers, 1010 Tenth Street, Basement Level, Modesto.** The Public Hearing being held to allow the public to provide testimony on the proposed sewer rate increase. The Council may continue the hearing from time to time without further written notice.

4. Any property owner may file with the City Clerk, at any time before the end of the Public Hearing, a written protest against the proposed rate increase. The written protest must identify the property, the property owner, and be signed by the owner of the property or an authorized representative of the owner of the property.

A protest form has been provided below for your use. The written protests may be hand delivered or mailed to the City Clerk at the City's address shown above. To be counted, the City Clerk must receive a written protest not later than the end of the Public Hearing specified above. Protests by telephone, fax, or e-mail will not be accepted. A majority protest exists if, upon the end of the Public Hearing, there are valid written protests submitted by owners of a majority of the properties subject to the proposed rate increase. A majority protest will result in the proposed rate increase not being imposed. Note that no more than one protest per property may be submitted.

5. To get additional information about the proposed rate increase, contact: Customer Service at (209) 577-5395 or e-mail: werrates@modestogov.com

Additional written material relating to protest procedures are available at the above City Clerk address during regular business hours.

Proposed Maximum Monthly Sewer Rates

	Year 1 1-Aug-07	Year 2 1-Jul-08	Year 3 1-Jul-09	Year 4 1-Jul-10	Year 5 1-Jul-11
Residential Rates					
Monthly Account Charge ($/Account)	$2.57	$3.71	$4.26	$4.53	$4.74
plus Dwelling Unit Charge ($/Dwelling Unit)					
Single Family Residential (SFR)	$15.97	$23.17	$26.65	$29.48	$30.98
Multiple Family 2-4 Dwelling Units	$13.71	$19.89	$22.89	$25.31	$26.60
Apartments (5 or more Dwelling Units)	$10.41	$15.10	$17.37	$19.21	$20.19
Commercial Rates					
Monthly Account Charge ($/Account)	$2.57	$3.71	$4.26	$4.53	$4.74
plus Quantity Charge ($/100 cubic feet)					
Group 1-BOD + TSS is 400 mg/l or less *	$1.35	$1.97	$2.26	$2.50	$2.63
Group 2-BOD + TSS is 401 mg/l to 900 mg/l	$1.67	$2.42	$2.78	$3.11	$3.27
Group 3-BOD + TSS is 901 mg/l to 1,400 mg/l	$1.98	$2.87	$3.31	$3.73	$3.91
Group 4-BOD + TSS is 1,401 mg/l or more	$2.36	$3.42	$3.94	$4.46	$4.69

* Churches and schools are billed at the Commercial Group 1 rate.

Proposed Maximum Monthly Sewer Rates

	Year 1 1-Aug-07	Year 2 1-Jul-08	Year 3 1-Jul-09	Year 4 1-Jul-10	Year 5 1-Jul-11
Industrial (Major and Minor) Rates					
Monthly Acct Charge ($/Acct)	$2.57	$3.71	$4.26	$4.53	$4.74
plus Quantity Charges (these three components are additive)					
Flow Charge ($/M gallons)	$1,475.66	$2,139.32	$2,460.12	$2,687.91	$2,822.83
BOD Charge ($/1,000 lbs.)	$72.98	$106.21	$122.61	$144.69	$152.53
TSS Charge ($/1,000 lbs.)	$127.82	$185.75	$214.11	$247.48	$260.51

Sample Calculations for Residential Properties:
Single Family Residential = $15.97 + $2.57/account = $18.54
Duplex = 2 units x $13.71/unit = $27.42 + $2.57/account = $29.99
10 Unit Apartment = 10 units x $10.41/unit = $104.10 + $2.57/account = $106.97

Abbreviations: M = million BOD = Bio-chemical Oxygen Demand
TSS = Total Suspended Solids lbs = pounds mg/l = milligrams per liter

The proposed rate increase(s) are based on currently available information. Your actual bills are rounded and may be slightly different than listed above. State law requires that all property owners affected by the rate increase(s) be given the opportunity to protest the proposed rate increase(s).

Beginning on July 1, 2012, maximum rates will be adjusted each year thereafter by the annual change in the Consumer Price Index (CPI), Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance, Demographics Research Unit. The actual rates to be levied each year will not exceed the adjusted maximum rates in any given fiscal year without notification of the property owners.

Protest Form

If you would like to protest the proposed Sewer Rate Increase, you may complete this Protest Form, detach it, and mail it to the Modesto City Clerk, P.O. Box 642, Modesto, CA 95353 or hand deliver the form to the City Clerk's office, 1010 Tenth Street, Sixth Floor, Modesto, CA 95354. In order for this form to be counted as a valid protest against the proposed rate increase, this form must be signed and delivered to the City Clerk no later than the end of the Public Hearing on July 24, 2007. ***Only one protest is allowed per property.***

Assessor's Parcel Number: <<APN>>

Parcel Address: <<Situs Address>>

☐ **I protest the proposed sewer rate increase to fund operation, maintenance and replacement costs related to providing sewer service to properties within the Modesto Sewer Service Area.**

I hereby declare under penalty of perjury that I am the owner of the above listed property or the authorized representative of the owner of the above listed property.

Please sign here and then print your name: _____

Please print the property owner name here: _____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-314

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DONALD LENGLING FROM THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, DONALD LENGLING, representing Modesto Golf Club, was appointed a member of the Golf Courses Advisory Committee, on February 28, 2006, and

WHEREAS, DONALD LENGLING has tendered his resignation from the aforementioned committee,

NOW, THEREFORE, BE IT RESOLVED that the resignation of DONALD LENGLING from the Golf Courses Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to DONALD LENGLING for his service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

051807/CMO/Puckett

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-315

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF PRERAK SHAH FROM THE EQUAL OPPORTUNITY/DISABILITY COMMISSION

WHEREAS, PRERAK SHAH was appointed a member of the Equal Opportunity/Disability Commission on June 13, 2006, and

WHEREAS, PRERAK SHAH has tendered his resignation from the aforementioned committees,

NOW, THEREFORE, BE IT RESOLVED that the resignation of PRERAK SHAH from the Equal Opportunity/Disability Commission hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to PRERAK SHAH for his service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-316

A RESOLUTION REQUIRING THAT CANDIDATES FOR THE NOVEMBER 6, 2007 REGULAR MUNICIPAL ELECTION PAY A $500 DEPOSIT AS A CONDITION OF HAVING HIS OR HER CANDIDATE STATEMENT INCLUDED IN THE VOTER PAMPHLET AND REQUIRING THE CITY CLERK TO BILL SUCH CANDIDATES FOR THEIR PRO RATA SHARE OF THE ACTUAL COST OF THE PRINTING OF SUCH STATEMENTS AFTER THE ELECTION

WHEREAS, pursuant to Section 85300 of the Political Reform Act, added by Proposition 73 of the June 1988 Statewide Primary Election, Public Funds; Prohibition, "No public officer shall expend and no candidate shall accept any public monies for the purpose of seeking elective office".

WHEREAS, State Elections Code Section 13307(e) provides that before the opening of the nomination period, the Council must determine whether the candidates shall pay for their statements and it was determined that candidates will be charged a $500.00 deposit at the time of filing their nomination form, and

WHEREAS, the City Clerk was directed, pursuant to Election Code 13307(c) to bill the candidate for any additional actual expense or refund any excess paid depending on the final actual cost.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby declares that candidates for election in the Regular Municipal Election to be held on November 6, 2007 shall be required to pay a $500 deposit as a condition of having his or her candidate statement included in the voter pamphlet.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-317

A RESOLUTION DIRECTING THE CITY CLERK TO CONDUCT THE DECEMBER 11, 2007 RUN-OFF ELECTION, IF NEEDED, BY MAIL

WHEREAS, in the event that no candidate is elected by a majority in the November 6, 2007 election, the two candidates receiving the most votes will run against one another in a December run-off election; and

WHEREAS, the City Council has chosen the City Clerk to conduct the City's run-off election in December 2007, and

WHEREAS, according to the Elections Code, the County Elections official has 28 days to certify the November Municipal Election, which falls on December 4, 2007, making it impossible to have sufficient time to hire precinct workers and establish polling locations; and

WHEREAS, the City entered into a contract with Martin & Chapman for election services, for a cost of $110,353.00, for election services to assist with the City Clerk in conducting the December run-off using an all-mail ballot process; and

WHEREAS, the City Council must indicate its intention to conduct the December 11, 2007 run-off election, if needed, by mail.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby declares that if a run-off election is required as a result of the Regular Municipal Election to be held on November 6, 2007, said run-off election shall be held by mail and scheduled on December 11, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-318

A RESOLUTION APPROVING A CONTRACT WITH MARTIN & CHAPMAN OF ANAHEIM, CALIFORNIA FOR PROFESSIONAL SERVICES TO CONDUCT THE DECMEBER 11, 2007 CITY COUNCIL RUN-OFF ELECTION USING AN ALL MAIL BALLOT IN THE AMOUNT OF $110,3353.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, Martin & Chapman has agreed to provide the services outlined in **Exhibit "A"** attached hereto and incorporated herein by reference in the amount of $110,353.00; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves award of contract to Martin & Chapman for professional services to conduct the December 11, 2007 run-off election using an all mail ballot.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
AGREEMENT FOR ELECTION SERVICES

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, this 5th day of June, 2007, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter referred to as "City", and MARTIN CHAPMAN COMPANY, a California corporation, hereinafter referred to as "Consultant".

This Agreement is made with regard to the following recitals:

A. City has determined that, in the event a run-off election is necessary, election services will be needed to assist the City Clerk in conducting the December 11, 2007 Run-Off Election.

B. Consultant represents that it is qualified, willing and able to provide the services to prepare said document(s).

NOW, THEREFORE, in consideration of this Agreement, and the mutual promises, covenants, and stipulations hereinafter contained, the parties agree as follows:

1. **SCOPE OF SERVICES.**

Consultant shall undertake and complete the preparation of the scope of work as set forth below. The Consultant shall perform the services as described below in a manner compatible with the standards of its profession, and shall produce a fully complete project that is acceptable to City.

Consultant will provide election services as follows:

- Printing and finishing of ballots, sample ballots and envelopes
- Mailing of ballots, sample ballots and envelopes
- Equipment necessary to process and certify election
- Attend and assist with election process on election night
- Receive and respond to questions by telephone or e-mail prior to election date

2. **TERM OF AGREEMENT.**

This Agreement is effective as of the date first written above and will continue in effect until City's acceptance of and payment for all services authorized by City and

performed by Consultant, unless terminated earlier in accordance with the provisions of the termination clause in this Agreement.

City hereby gives Consultant notice to proceed with the preparation of the project in the manner described herein, as of the effective date of this Agreement. Consultant shall diligently proceed with the preparation of the project and agrees to complete said preparation within the time period set forth herein.

3. **COMPENSATION.**

Consultant agrees to accept a sum not to exceed $110,353.00 as full remuneration for performing all services and furnishing all staffing and materials called for in Section 1 and for performance by Consultant of all of its duties and obligations under this Agreement.

The Compensation shall be paid pursuant in the manner and at the times set forth below:

At the completion of Election Services for the Run-off Mail Ballot Election on December 11, 2007.

4. **FAILURE TO PERFORM SATISFACTORILY**

It is agreed and understood that if the Consultant fails to perform the work as specified herein, City's representative may (1) consent to accept such unsatisfactory service with an appropriate adjustment in contract price, based on established cost factors, or (2) have such required work done by City forces or otherwise, and charge the cost thereof to the Consultant. Those discrepancies and deficiencies in the work that remain uncorrected after the date set for correction may be the necessary justification for a billing adjustment in the month following the occurrence. Unless otherwise negotiated, billing adjustments for this incomplete or uncorrected work shall be permanent retention of 100% of the estimated monthly cost for the work not corrected or completed.

5. **OBLIGATIONS OF CONSULTANT.**

Throughout the term of this Agreement, Consultant shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. Consultant warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the City with the services contemplated by this Agreement. Consultant further warrants that it will follow

the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project. The business license requirement has been waived by the City Clerk's Office.

6. **PERFORMANCE BY KEY EMPLOYEE.**

Consultant has represented to City that _____, will be the person primarily responsible for the performance of the services referred to in this Agreement. City has entered into this Agreement in reliance on that representation by Consultant. Consultant therefore agrees that seventy-five percent (75%) or more of the time to be devoted to the project that is the subject of this Agreement will be that of the above-named person.

7. **OWNERSHIP OF DOCUMENTS/TITLE TO DATA.**

Ownership of Documents

All reports, drawings, designs, graphics, working papers and other incidental work or materials furnished hereunder shall become and remain the property of the City, and may be used by City as it may require without any additional cost to City. No reports shall be used by the Consultant for purposes other than this contract without the express prior written consent of City.

Title to Data

If, as a part of the Agreement, Consultant is required to produce data such as, but not limited to, drawings, plans, Request for Proposal, calculations, models, flow diagrams, visual aids and other related materials, the originals of all such data generated under this Agreement will be delivered to City upon the completion or termination of services under the contract.

All materials, documents, data or information obtained from City of Modesto data files or any City of Modesto medium furnished to Consultant in the performance of this Agreement will at all times remain the property of the City of Modesto. Such data or information may not be used or copied for direct or indirect use by Consultant after termination of this Agreement without written consent of the City.

8. **NEWS AND INFORMATION RELEASE.**

Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Clerk.

9. **INTEREST OF CONSULTANT.**

Consultant warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Consultant warrants that, in performance of this Agreement, Consultant shall not employ any person having any such interest. Consultant agrees to file a Statement of Economic Interests with the City Clerk of the City at the start and end of this contract if so required at the option of City.

10. **AMENDMENTS.**

Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for City or Consultant to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with City and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, City will not be responsible to pay any charges Consultant may incur in performing such additional services, and Consultant shall not be required to perform any such additional services.

11. **INDEPENDENT CONSULTANT.**

All acts of Consultant, its agents, officers, and employees and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent Consultants and not as agents, officers, or employees of City. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of City. Consultant has no authority or responsibility to exercise any rights or power vested in the City. No agent, officer, or employee of the City is to be considered an employee of Consultant. It is understood by both Consultant and City that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

Consultant, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent Consultants and not as employees of City.

Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to City only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to City's control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. Consultant is permitted to provide services to others during the same period services are provided to City under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision, and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the Consultant.

It is understood and agreed that as an independent Consultant and not an employee of City neither the Consultant or Consultant's assigned personnel shall have any entitlement as an City employee, right to act on behalf of the City in any capacity whatsoever as an agent, or to bind the City to any obligation whatsoever.

It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's personnel.

As an independent Consultant, Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

12. **ASSIGNMENT.**

Neither this Agreement nor any portion thereof shall be subcontracted or assigned without the express prior written consent of the City in each and every instance.

13. **PATENT/COPYRIGHT MATERIALS.**

Unless otherwise expressly provided in the contract, Consultant shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. Consultant shall furnish a warranty of such right to use to City at the request of City.

14. **NOTICES.**

Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

FOR Consultant:

Name:	Martin & Chapman Company
Address:	1951 Wright Circle, Anaheim, CA 92806
Attention:	Scott Martin
Phone:	(714) 939-9866

FOR City:

Name:	Jean Morris, City Clerk & Auditor
Address:	P.O. Box 642, Modesto, CA 95353
Attention:	Jean Morris
Phone:	(209) 577-5398

15. **INSURANCE REQUIREMENTS.**

The Consultant shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in 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 Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.

(a) Worker's Compensation - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of $500,000.

(b) General Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or $1,000,000

combined single limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent consultants and subcontractors; products and completed operations; and professional liability.

(c) Automobile Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or $1,000,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.

(d) Professional Liability insurance with a minimum limit of $1,000,000 per claim and policy aggregate.

If at any time any of said policies shall be unsatisfactory to the City, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the City, the Consultant shall promptly obtain a new policy, submit the same to the City's Risk Manager for approval and submit a certificate thereof as herein-above provided. Upon failure of the Consultant to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the City, may be forthwith declared suspended, or terminated. Failure of the Consultant to obtain and/or maintain any required insurance shall not relieve the Consultant from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Consultant concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers for losses arising from work performed by Consultant for the City. The Consultant's insurance policy(ies) shall include a provision that the coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The Consultant must deliver certificates evidencing existence of the insurance called for in the contract Request for Proposal to the City Clerk of the City at the time the contract is signed.

16. **TERMINATION OF AGREEMENT.**

Termination on Occurrence of Stated Events

This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of Consultant, (2) legal dissolution of Consultant, or (3) death of key principal(s) of Consultant.

Termination by City for Default of Consultant

Should Consultant default in the performance of this Agreement or materially breach any of its provisions, at its option City may terminate this Agreement by giving five (5) days written notification to Consultant. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of City of Modesto and/or City's property by Consultant, dishonesty or theft.

Termination by Consultant for Default of City

Should City default in the performance of this Agreement or materially breach any of its provisions, at its option Consultant may terminate this Agreement by giving written notice to City. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with Consultant, willful destruction of Consultant's property by City, dishonesty or theft.

Termination by City for Lack of Budgeted Funds

The City may terminate this Agreement effective July 1 of any given year upon the City's determination to not appropriate sufficient funds for this Agreement for the ensuing fiscal year. In such event City shall give Consultant not less than 30 days written notice.

Termination for Failure to Make Agreed-Upon Payments

Should City fail to pay Consultant all or any part of the payments set forth in this Agreement on the date due, at its option Consultant may terminate this Agreement if the failure is not remedied within thirty (30) days after Consultant notifies City in writing of such failure to pay. The termination date shall be the effective date of the notice.

Termination by City for Change of Consultant's Tax Status

If City determines that Consultant does not meet the requirements of federal and state tax laws for independent Consultant status, City may terminate this Agreement

by giving written notice to Consultant. The termination date shall be the effective date of the notice.

Voluntary Termination

The parties may terminate this contract upon mutual written Agreement.

In the Event of Termination

If this Agreement is terminated pursuant to this Paragraph, Consultant shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If City so requests, and at City's cost, Consultant shall provide sufficient oral or written status reports to make City reasonably aware of the status of Consultant's work on the project. Further, if City so requests, and at City's cost, Consultant shall deliver to City any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, City will pay Consultant an amount based on the percentage of work completed on the termination date, this percentage shall be determined by City in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by City for Default of Consultant, Consultant understands and agrees that City may, in City's sole discretion, refuse to pay Consultant for that portion of Consultant's services which were performed by Consultant on the project prior to the termination date and which remain unacceptable and/or not useful to City as of the termination date.

17. **INDEMNITY.**

Consultant, its agents, officers and employees shall defend, indemnify, and hold harmless City of Modesto and/or City, its agents, officers, and employees from and against all claims, damages, losses, judgment, liabilities, expenses, and other costs including litigation costs and attorney's fees from every cause, including but not limited to injury to person or property or wrongful death arising directly or indirectly out of any act or omission of Consultant whether or not the act or omission arises from the sole negligence or other liability of City of Modesto and/or City, or its agents, officers, and employees or volunteers relating to or during the performance of its obligations under this agreement.

Consultant's obligation to defend, indemnify, and hold the City of Modesto and/or City, its agents, officers, and employees harmless under the provisions of this paragraph is not

limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

18. **ENTIRE AGREEMENT.**

This Agreement and its exhibits contain the entire understanding between Consultant and City. Additional or new terms contained in this Agreement which vary from Consultant's proposal are controlling and are deemed accepted by Consultant by shipment of any article or other commencement of performance hereunder. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

19. **PARTIAL INVALIDITY.**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

20. **WAIVER.**

The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

21. **AUDIT.**

The City's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant's charges to City under this Agreement.

Consultant agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for Consultant services. City's representative shall have the right to reproduce any of the aforesaid documents.

22. **GOVERNING LAW.**

This Agreement shall be governed according to the laws of the State of California.

23. **HEADINGS NOT CONTROLLING.**

Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

24. **COMPLIANCE WITH LAWS.**

Consultant shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. Consultant shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits. Consultant will have a City of Modesto business license.

IN WITNESS WHEREOF, the City Council of the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. _____, adopted by the City Council of the City of Modesto on the 5th day of June, 2007 and Consultant has caused this agreement to be duly executed.

CITY OF MODESTO,
a municipal corporation

By:_____
GEORGE BRITTON, City Manager

ATTEST:

By _____
JEAN MORRIS, City Clerk
(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

By _____
MARY AKIN, Risk Manager

CONSULTANT*

By:_____

By:_____

Consultant's Federal ID #_____

*Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.
Partnership - signature of a partner required
Sole Proprietorship - signature of proprietor required

RESCINDED

Print

SEP - 4, 2007

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2007-515

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-319

A RESOLUTION APPROVING A CFF RIGHT OF WAY REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO MABLE, LLC, A LIMITED LIABILITY COMPANY, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF $433,862.00 FOR RIGHT OF WAY FOR THE FUTURE PELANDALE/CLARATINA EXPRESSWAY AND RIGHT OF WAY LOCATED ON OAKDALE ROAD NORTH OF MABEL AVENUE, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND FINDING THAT THE AGREEMENT IS WITHIN THE SCOPE OF THE GENERAL PLAN MASTER EIR (SCH NO. 1999082041) AND THE NORTH BEYER PARK SPECIFIC PLAN MND (SCH NO. 9610253)

WHEREAS, the City of Modesto's General Plan calls for Pelandale Avenue/Claratina Road to be constructed as a Class A expressway, and

WHEREAS, the future Claratina Road will be developed as an expressway and additional right of way is necessary for the future realignment of Claratina Road, and

WHEREAS, Modesto Mable, LLC, a Limited Liability Company, ("Developer") has a legal interest in a certain tract of land located at the northwest corner of Oakdale Road and Mable Avenue in North Beyer Park Specific Plan area of the City of Modesto, commonly known as the Rose Villas Subdivision ("Subdivision"), and

WHEREAS, as a condition of approval of the Subdivision, the Developer is required to dedicate 73,979 square feet of right of way for the future Pelandale/Claratina Expressway and 4,313 square feet of right of way for the widening of Oakdale Road north of Mable Avenue (collectively "the Dedication"), and

WHEREAS, the Dedication will be made through the recordation of the final map for the Subdivision ("Final Map") and the Dedication will be effective upon recordation of said Final Map, and

WHEREAS, a portion of the Dedication is reimbursable through the City's Capital Facilities Fees ("CFF") program, and

WHEREAS, the City and the Developer are proposing to enter into a CFF Right of Way Reimbursement Agreement ("Agreement") between the City of Modesto and Developer to provide for reimbursement for (a portion of) the ROW to be dedicated, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $433,862, which will be allocated from the Streets CFF fund not later than fifteen (15) days after recordation of the Final Map for the Subdivision or July 1, 2007, whichever occurs later, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2006-66, which concludes that the dedication of the right of way for which the Developer will be reimbursed under the proposed Agreement, is within the scope of the General Plan Master EIR (SCH No. 1999082041) and the North Beyer Park Specific Plan MND (SCH No. 96102053, and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required,

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

1. The proposed CFF Right of Way Reimbursement Agreement between the City of Modesto and Modesto Mable, LLC ("Project") is consistent with the North Beyer Specific Plan and the Modesto Urban Area General Plan.

2. The reimbursement for the proposed right of way is included in the 2003 CFF program.
3. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the General Plan Master EIR and the North Beyer Park Specific Plan MND ("Program EIR") and no new environmental document or findings are required by CEQA.
4. There are no substantial changes proposed in the Project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR, are required.
5. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR, are required.
6. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:
    a. one or more significant effects which is not discussed in the Program EIR; or,

b. significant effects which were previously examined will be substantially more severe than previously shown; or,

c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,

d. mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

7. The Written Checklist, Environmental Assessment EA/C&ED 2006-66, provides the substantial evidence to support findings 3-7, above.

BE IT FURTHER RESOLVED that the CFF Right of Way Reimbursement Agreement between the City of Modesto and Modesto Mable, LLC is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-320

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN EMPLOYMENT EXTENSION AGREEMENT WITH GEORGE BRITTON TO CONTINUE TO SERVE AS CITY MANAGER OF THE CITY OF MODESTO FOR A LIMITED TERM OF JULY 1, 2007 THROUGH JANUARY 6, 2008 AT A SALARY OF $15,076 PER MONTH

WHEREAS, on April 5, 2005, the City Council appointed then Acting City Manager George Britton as City Manager and entered into an employment agreement with George Britton to serve as City Manager of the City of Modesto until July 1, 2007, at an annual salary of $154,010 per City Council Resolution No. 2005-165, and

WHEREAS, the City Council desires to extend said employment for a fixed limited term, effective July 1, 2007 through January 6, 2008, and

WHEREAS, the extension agreement shall provide for a monthly salary of $15,076.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Mayor to sign an employment extension agreement with George Britton to continue to serve as City Manager of the City of Modesto through January 6, 2008, at a monthly salary of $15,076. Said employment agreement is attached hereto as **Exhibit "A"** and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO - GEORGE W. BRITTON
EMPLOYMENT EXTENSION AGREEMENT FOR A LIMITED TERM

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EMPLOYMENT AGREEMENT

Introduction
This agreement, made and entered into this _____ day of _____, _____, by and between the CITY OF MODESTO, a municipal corporation, (hereinafter called "Employer"), and GEORGE W. BRITTON (hereinafter called "Employee"), an individual who has the California education, training and experience in local government management and who, as a member of ICMA, is subject to the ICMA Code of Ethics, both of whom agree as follows:

Section 1: Limited Term
The term of this Agreement shall be for a limited term from July 1, 2007, through January 6, 2008. The parties understand and agree that the purpose of entering into this limited term agreement is to allow Employer sufficient time to successfully complete its recruitment for a new City Manager. It is in support of this Employer objective that Employee has agreed to postpone his retirement date of June 30, 2007, as properly noticed to the Employer on February 20, 2007. In the event the Agreement is not renewed, all compensation, benefits and requirements of the Agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns.

Section 2: Duties and Authority
Employer agrees to employ George W. Britton as City Manager to perform the functions and duties specified in the Modesto Charter and the California Government Code, and to perform other legally permissible and proper duties and functions.

Section 3: Compensation
A. Base Salary: Employer agrees to pay Employee a monthly salary of Fifteen Thousand Seventy-Six Dollars ($15,076.00) payable in installments at the same time that the other employees of the Employer are paid. Said monthly salary shall be prorated for one week in January 2008.

B. The parties also expressly acknowledge that Employee shall continue to receive Masters Degree Pay of 1.5% as previously authorized by Council Resolution No. 2003-330.

Section 4: Disability and Life Insurance Benefits
A. The Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and his/her dependents equal to that which is provided to all other Management and Confidential employees of the City of Modesto or, in the event no such plan exists, to provide coverage for the Employee and dependents.

B. The Employer agrees to put into force and to make required premium payments for long term disability coverage for the Employee.

C. The Employee may elect to submit once per calendar year to a complete physical examination by the City medical provider or by the Employee's physician under the Employee's group insurance plan with City reimbursement for Employee's out-of-pocket costs.

D. The Employer shall pay the amount of premium due for a term life insurance policy of $120,000. The Employee shall name the beneficiary of the life insurance policy.

Section 5: Vacation, Sick, and Management/Executive Leave

A. The Employee shall then accrue sick and vacation leave on an annual basis at the highest rate provided to non-sworn management employees. Employee hereby notifies Employer of Employees intent to utilize at least three continuous weeks of vacation time for a previously planned vacation to take place on or about Fall of 2007.

B. The Employee is entitled to accrue all unused leave, without limit, and in the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, all paid holidays, management/executive leave, and other benefits to date.

C. The Employee shall on January 1st of each calendar year be credited with eighty (80) hours of executive/management leave or the highest amount credited to any non-sworn management employee, whichever is greater.

Section 6: Automobile

The Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of $4,800.00 per year, payable in equal monthly installments, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Employer shall reimburse the Employee at the IRS standard mileage rate for any business use of the vehicle beyond the greater Modesto area. For purposes of this Section, use of the car within the greater Modesto area is defined as travel to locations within a 75-mile radius of the Modesto City Hall.

Section 7: Retirement

A. The Employer agrees to enroll the Employee into the California Public Employees Retirement System (PERS). Employer shall pay 6.6% and Employee shall pay 0.40% of the total 7% "Employee's share," and Employer shall pay 100% of "Employer's share" on behalf of the Employee.

B. In addition to the Employer's payment to the state retirement system (as applicable) referenced above, Employer agrees to execute all necessary agreements provided by ICMA Retirement Corporation (ICMA-RC) or other Section 457 deferred compensation plan for Employee's continued participation in said supplementary retirement plan and, in addition to the base salary paid by the Employer to Employee, Employer agrees to pay an amount equal to one and one-half percent (1.5%) of Employee's base salary, or greater, into the designated plan on the Employee's behalf, in equal proportionate amounts each pay period. The parties shall fully disclose to each other the financial impact of any amendment to the term s of Employee's retirement benefit.

C. The Employer shall continue a qualified 401(a) defined contribution plan offered through ICMA Retirement Corporation for the Employee in the form of a money purchase plan to which the Employer shall contribute five (5%) of salary, previously authorized by Council Resolution No. 2005-602. Employee shall match the Employer's contribution.

Section 8: General Business Expenses

A. In its discretion, Employer shall budget for and pay travel and subsistence expenses of Employee for professional and official travel, meetings, courses, institutes and seminars to continue his professional development and to adequately pursue necessary official and other functions on behalf of the Employer, including but not limited to the annual conference of the League of California Cities.

B. The Employer acknowledges the value of having Employee, in its discretion, participate and be directly involved in local civic clubs or organizations. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

Section 9: Termination

For the purpose of this Agreement, termination shall occur when:

A. The majority of the governing body votes to terminate the Employee at a duly authorized closed or open meeting.

B. If the Employer, citizens or legislature acts to amend any provisions of the Charter pertaining to the role, powers, duties, authority, responsibilities of the Employee's position that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.

C. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all city employees, such action shall constitute a breach of this Agreement and will be regarded as a termination.

D. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer as representative of the majority of the governing body that the Employee resign, then the Employee may declare a termination as of the date of the suggestion.

E. Breach of contract declared by either party within a 30-day cure period for either Employee or Employer. Written notice of a breach of contract shall be provided in accordance with the provisions of Section 20.

Section 10: Severance

A. Severance shall be paid to the Employee when employment is terminated as defined in Section 9.

B. In the event the Employer terminates this agreement during which time Employee is ready, willing and able to perform the functions and duties set forth herein, then, in that event, Employer agrees to:

1. Provide Employee with ninety (90) days prior written notice of said termination. Provided, however, that as set forth in Section 800 of the City's Charter no such determination to terminate shall be made during or within a period of ninety (90) days next succeeding the election of a member of the Council.

Section 11: Resignation
In the event that the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of ninety (90) days advance notice unless the parties agree otherwise.

Section 12: Performance Evaluation
Employer may review the performance of the Employee subject to a process, form, criteria, and format for the evaluation, which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within thirty (30) days of the evaluation meeting.

Section 13: Hours of Work
It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

Section 14: Outside Activities
The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect, with the approval of the City Council, to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements shall not constitute interference with nor a conflict of interest with his responsibilities under this Agreement.

Section 15: Residency
Employee agrees to maintain residence within the corporate boundaries of the City of Modesto.

Section 16: Indemnification
Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager, or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation at Employer's expense and Employer may not unreasonably withhold approval. Legal representation, provided by Employer for Employee, shall extend until a final determination of

the legal action including any appeals brought by either party. The Employer shall indemnify employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

Employee recognizes that Employer shall have the right to compromise or settle a claim or suit. However, if the Employee is a named party to the suit, Employee's written consent must be given for the compromise or settlement. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee's service to the Employer as long as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation if those services occur after Employee is no longer an Employee of the Employer.

Section 17: Bonding
Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 18: Other Terms and Conditions of Employment
The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Modesto Charter or any other law.

Except as otherwise provided in this Agreement, the Employee shall be entitled to the highest level of benefits that are enjoyed by other non-sworn management employees of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

Section 19: Notices
Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

EMPLOYER: City Clerk, City of Modesto, P. O. Box 642, Modesto, CA 95353
EMPLOYEE: George W. Britton, 1008 Copper Lake Court, Modesto, CA 95355-8905

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 20: General Provisions
A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer.

Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provisions of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on _____, 2007.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attestation by its City Clerk under authority of Resolution No. _____ adopted by the Council of the City of Modesto on the _____ day of _____, 2007, and CONTRACTOR/EMPLOYEE has caused this Agreement to be duly executed.

CITY OF MODESTO
A Municipal Corporation

_____
By: Jim Ridenour, Mayor

CONTRACTOR/EMPLOYEE

_____
George W. Britton

ATTEST:

By: _____
Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-321

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF BULK FUELS AND LUBRICANTS FOR USE CITYWIDE, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $1,567,792

WHEREAS, the Public Works Department, Fleet Services Division and the Fire Department maintain storage tanks for bulk fuels, which are used to fuel buses and fire apparatus, and

WHEREAS, additionally, these departments maintain a stock of lubricants that are used in the maintenance of the City's fleet, and

WHEREAS, the Public Works Department, Waste Water Division and Water Division use red dyed #2 diesel fuel to fuel non-public roadway diesel powered equipment, and standby diesel powered generators that supply backup power to municipal potable water wells, and

WHEREAS, bulk fuels and lubricants used at these facilities are purchased on an as needed basis throughout the year from annual purchase agreements,

WHEREAS, Annual agreements take advantage of economies of scale, by combining department volumes for long-term procurement commitments with various suppliers, and

WHEREAS, purchase agreements are due to expire in 2007, and by issuing formal RFB's, the City will achieve the best value possible for bulk fuels and lubricants and will meet Modesto Municipal Code requirements for formal bids, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal RFB for the purchase of bulk fuels and lubricants conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of bulk fuels and lubricants for use Citywide, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmemeber Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-322

A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown on the Budget Request form(s).

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, 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
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-323

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO CITY SCHOOLS IN THE AMOUNT OF $465,877 FOR THE PROVISION OF NINE MODESTO POLICE OFFICERS/SCHOOL RESOURCE OFFICERS (SROs) TO PROVIDE DIRECT LAW ENFORCEMENT SERVICES, CAMPUS SUPERVISOR TRAINING, IN SERVICES, AND CONSULTATIONS WITH SITE STAFF AND DISTRICT ADMINISTRATORS, AND ACT AS A LIAISON BETWEEN MODESTO POLICE DEPARTMENT AND MODESTO CITY SCHOOLS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, Modesto City Schools would like to have the services of nine Modesto Police Officers to provide prevention, intervention, and enforcement services to students, their families and staff at Beyer, Davis, Downey, Johansen, Modesto, and Enochs High Schools, and Elliott Alternative Education Center, and Mark Twain, Hanshaw, and Roosevelt Junior High Schools, and

WHEREAS, the Modesto Police Department can provide specially trained, uniformed police officers to provide campus supervisor training, in services, and consultations with site staff and District administrators, and

WHEREAS, the Police Officers can act as a liaison between the Modesto Police Department and Modesto City Schools, and

WHEREAS, the Police Officers can direct law enforcement action at the district school sites, if warranted, and

WHEREAS, the Police Officers' presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the term of this Agreement is July 1, 2007, to June 30, 2008, and

WHEREAS, the City shall be compensated by Modesto City Schools in the amount of $465,877 for the services of nine Modesto Police Officers, one 12-month officer at $63,529 and eight 9.5 month officers at $402,348,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement between the City of Modesto and Modesto City Schools in the amount of $465,877 for the provision of nine Modesto Police Officers/School Resource Officers (SROs) to provide direct law enforcement services, campus supervisor training, in services, and consultations with site staff and District administrators, and act as a liaison between the Modesto Police Department and Modesto City Schools.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-324

A RESOLUTION ACCEPTING THE DONATIONS OF $7,500 FROM STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY AND $1,000 FROM FARMERS INSURANCE GROUP FOR AUTO THEFT PREVENTION, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, State Farm Mutual Automobile Insurance Company and Farmers Insurance Group have partnered to donate money for auto theft prevention to the Modesto Police Department, and

WHEREAS, State Farm Mutual Automobile Insurance Company is donating $7,500 to the Modesto Police Department for auto theft prevention, and

WHEREAS, Farmers Insurance Group is donating $1,000 to the Modesto Police Department for auto theft prevention, and

WHEREAS, there is no fiscal impact to the City of Modesto, and

WHEREAS, the money will be deposited in the Auto Theft Trust Account, fund 8600, and balance sheet account 3403,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the donations of $7,500 from State Farm Mutual Automobile Insurance Company and $1,000 from Farmers Insurance Group for auto theft prevention.

BE IT FURTHER RESOLVED that said amount will be deposited in the Auto Theft Trust Account, Fund 8600, Balance Sheet Account 3403:

Balance Sheet:

To:	8600-3403	$8,500	Auto Theft Trust Account

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-325

A RESOLUTION APPROVING AN ELECTRIC UTILITY POLE RELOCATION AGREEMENT WITH MODESTO IRRIGATION DISTRICT (MID) FOR THE RELOCATION OF UTILITY POLES LOCATED ON FLOYD AVENUE AT FINE AVENUE AND MILLBROOK AVENUE IN THE AMOUNT NOT TO EXCEED $75,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on October 3, 2006, by Resolution 2006-637, the City Council approved CIP Project #X512 "Floyd Avenue between Roselle and Fine" as part of the City's Capital Improvement Program, which included right-of-way acquisition, design, construction, construction administration, and contingency for the roadway improvements on Floyd Avenue between Roselle Avenue and Fine Avenue, and

WHEREAS, along the south side of Floyd Avenue between Roselle Avenue and Fine Avenue there are high voltage electrical lines, and

WHEREAS, in order for the contractor to complete the improvements the electric utility poles located at the intersections of Floyd/Fine and Floyd/Millbrook must be relocated, and

WHEREAS, utility pole relocation is necessary in order to construct the Floyd Avenue widening project between Roselle Avenue and Fine Avenue per the approved Village One Facilities Master Plan, and

WHEREAS, the current budgeted amount of $75,000 for the Agreement is available in the CIP Account 2691-020-X512 "Floyd Avenue between Roselle and Fine" to cover the cost for these services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto and Modesto Irrigation District

(MID), for the relocation of electric utility poles located on Floyd Avenue at Fine Avenue and Millbrook Avenue in an amount not to exceed $75,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-326

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH TRS CONSULTANTS, INC., FOR CONSTRUCTION MANAGEMENT SERVICES OF THE PELANDALE AVENUE 6-LANE WIDENING - DALE ROAD TO MCHENRY AVENUE PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $1,408,633.32, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on February 22, 2005, under Resolution No. 2005-118, City Council approved amending the City's Capital Improvement Program (CIP) and budget to allow construction of a 6-lane interim facility on Pelandale Avenue between Dale Road and McHenry Avenue, and

WHEREAS, the widening of Pelandale Avenue to full 6-lane expressway status is scheduled to commence fiscal year 2008, and

WHEREAS, the roadway improvements will convert Pelandale Avenue to full expressway status with three (3) new westbound lanes and one (1) new eastbound lane from Dale Road to McHenry Avenue, and

WHEREAS, within the project limits of the Pelandale Avenue widening project, the City plans to install all subsurface infrastructure improvements to avoid future trench excavation in new asphalt pavement, and

WHEREAS, within the project limits of the Pelandale Avenue widening project, the City plans to construct a new detention basin, storm drain piping, appurtenant drainage structures, and a pumping station to handle storm water runoff, and

WHEREAS, the construction of the new detention basin, storm drain piping, appurtenant drainage structures, and a pumping station prior to final pavement installation on Pelandale Avenue will avoid future traffic disruption, eliminate the need to

remove and restore sections of newly constructed asphalt pavement, and will offer the most effective cost and time alternative for the project, and

WHEREAS, the Pelandale/McHenry Specific Plan proposes to develop a new housing subdivision requiring the construction of dual storm water detention basins and a new 10 inch sewer line in Pelandale Avenue, and

WHEREAS, the Pelandale/McHenry Specific Plan dual storm water detention basins will be required to accept a portion of the Pelandale Avenue on-site storm water runoff, and

WHEREAS, it is necessary to include construction management services for the Pelandale 6-lane widening project and infrastructure improvements, including the dual storm water detention basins pipe connections and the new 10 inch sewer line construction in the Pelandale Avenue widening project, and

WHEREAS, the construction management services for the storm water detention basin and the new 10 inch sewer line construction in Pelandale Avenue will be partially paid for by the Pelandale/McHenry Developer, and

WHEREAS, the firm of TRS Consultants, Inc., was considered to be the most qualified to provide construction management services for the project, and

WHEREAS, Capital Improvement Services staff recommends that an agreement with the consulting firm of TRS Consultants, Inc., be approved to perform the construction management services as current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an agreement with TRS Consultants, Inc., in an amount not-to-exceed $1,408,633.32 to perform construction management services of the Pelandale Avenue 6-Lane Widening - Dale Road to McHenry Avenue project, and

WHEREAS, TRS Consultants, Inc., will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Consultant Agreement with TRS Consultants, Inc., in the amount not-to-exceed $1,408,633.32, for construction management services of the Pelandale Avenue 6-lane Widening - Dale Road to McHenry Avenue project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-327

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE CITY'S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM FOR FISCAL YEAR 2007/08 IN THE AMOUNT OF $9,167,552 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE TRANSIT CLAIM.

WHEREAS, the greatest portion of the City's funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds and State Transit Assistance Fund (STA) funds, and

WHEREAS, StanCOG has informed the Finance Department that LTF and STA funding has been apportioned by the State to StanCOG for allocation to public transit agencies pursuant to Sections 99233.3 and 99234 of the California Public Utilities Code (PUC), and

WHEREAS, the City has developed an application for Fiscal Year 2007/08 TDA reimbursement pursuant to Section 99233.3 of the California PUC, and

WHEREAS, the City's Transit TDA Claim for Fiscal Year 2007/08 is $9,167,552, composed of $7,826,645 in LTF funds and $1,340,907 in STA funds, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2007/08 is $13,244,725, and

WHEREAS, the added Transit Capital Budget for Fiscal Year 2007/08 is $2,820,855, and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99261 of the California PUC before any TDA funding can be released to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the TDA transit claim for Fiscal Year 2007/08 in the amount of $9,167,552.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute and submit the TDA transit claim to StanCOG for Fiscal Year 2007/08.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Council member Dunbar, who moved its adoption, which motion being duly seconded by Council member Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-328

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE CITY'S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM #2 FOR FISCAL YEAR 2006/07 IN THE AMOUNT OF $7,847,421 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE TRANSIT CLAIM.

WHEREAS, the greatest portion of the City's funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds and State Transit Assistance Fund (STA) funds, and

WHEREAS, the claim was first approved on June 6, 2006, and

WHEREAS, the State budget increased the STA amount for 2006/07 by $2,874,445, and

WHEREAS, StanCOG has informed the City it needs to amend the claim to reflect the re-apportioned funding for allocation to public transit agencies pursuant to Sections 99233.3 and 99234 of the California Public Utilities Code (PUC), and

WHEREAS, the City's Transit TDA Claim #2 for Fiscal Year 2006/07 is now $7,847,421 and is composed of $3,271,058 in LTF funds and $4,576,363 in STA funds, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2006/07 is $12,193,014, and

WHEREAS, the added Transit Capital Budget for Fiscal Year 2006/07 is $2,582,082, and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99261 of the California PUC before any TDA funding can be released to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the TDA transit claim for Fiscal Year 2006/07 in the amount of $7,847,421.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute and submit the TDA transit claim to StanCOG for Fiscal Year 2006/07.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Council member Dunbar, who moved its adoption, which motion being duly seconded by Council member Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-329

A RESOLUTION APPROVING POLICY RECOMMENDATIONS MADE BY THE CITY COUNCIL FINANCE COMMITTEE AS PART OF THE FY 2007-08 BUDGET DEVELOPMENT PROCESS.

WHEREAS, each year the City Council's Finance Committee makes recommendations regarding the upcoming Fiscal Year operating budget and capital improvement program, and

WHEREAS, from time to time, those recommendations include various policy issues with financial impacts, and

WHEREAS, in the development of the FY 2007-08, the Finance Committee reviewed and recommended for City Council consideration the following:

1. Managed Competition for External Building Custodial Services to be undertaken in FY 2007-08.
2. Funding of New Positions: New positions to be funded at date-of-hire rather than the current practice of funding the position from the date of approval.
3. Other Post Employment Benefit Funding: Maintain current level of funding and defer consideration of additional funding until negotiations with employee groups and other discussions on retiree health are concluded.
4. Proposition 42 Maintenance of Effort Funding: Continuing street maintenance spending from discretionary funds at current level which is $1.3 million above the required Maintenance of Effort.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the policy recommendations of the Finance Committee as follows:

1. Managed Competition for External Building Custodial Services to be undertaken in FY 2007-08.
2. Funding of New Positions: New positions to be funded at date-of-hire rather than the current practice of funding the position from the date of approval.
3. Other Post Employment Benefit Funding: Maintain current level of funding and defer consideration of additional funding until negotiations with employee groups and other discussions on retiree health are concluded.
4. Proposition 42 Maintenance of Effort Funding: Continuing street maintenance spending from discretionary funds at current level which is $1.3 million above the required Maintenance of Effort.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-330

A RESOLUTION APPROVING A FIVE-YEAR AGREEMENT WITH MV TRANSPORTATION INC., TO OPERATE THE MODESTO AREA EXPRESS (MAX) BUS SERVICE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the existing agreement with MV Transportation to operate the Modesto Area Express (MAX) bus service expires June 29, 2007, and

WHEREAS, the City wishes to continue providing bus service to the citizens of Modesto, and

WHEREAS, the City Council authorized staff to solicit proposals for a new five-year contract to be effective June 30, 2007, and

WHEREAS, four proposals were received for the contract, and

WHEREAS, MV Transportation Inc., received the highest point total in the evaluation and scoring of the proposals, and

WHEREAS, the City Council awarded the contract to MV Transportation Inc., on April 3, 2007, and authorized staff to negotiate an agreement with MV and return to Council for approval of the agreement,

NOW, THEREFORE, BE IT RESOLVED by the City Council that it hereby approves a five-year operations agreement with MV Transportation Inc., on behalf of the City of Modesto, to become effective on June 30, 2007 and expire June 29, 2012.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the5th day of June, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-331

A RESOLUTION DECLARING SEAT HELD BY GREG DUB ON THE EQUAL OPPORTUNITY/DISABILITY COMMISSION VACANT

WHEREAS, GREG DUB was appointed a member of the Equal Opportunity/Disability Commission on June 13, 2006, and

WHEREAS, GREG DUB has not attended regular Equal Opportunity/Disability Commission meetings since December 2006, and

WHEREAS, Section 1105 of the Modesto City Charter states that if a member of a board or commission is absent from three (3) regular meetings, the member's office shall become vacant and shall be so declared by the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the seat held by GREG DUB on the Equal Opportunity/Disability Commission is hereby declared vacant.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of Modesto, hereby expresses its sincere appreciation to GREG DUB for his service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-332

A RESOLUTION APPROVING AMENDMENT TO A REIMBURSEMENT AGREEMENT WITH STANISLAUS COUNTY AND STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) TO INCREASE THE CITY'S CONTRACT AMOUNT BY $90,000 FOR PROJECT COORDINATION SERVICES FOR THE SR 219 WIDENING FROM SR 99 TO MCHENRY AVENUE AND DALE/KIERNAN INTERSECTION IMPROVEMENT PROJECTS WITH THE COST TO THE CITY NOT TO EXCEED $150,000, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT.

WHEREAS, on April 4, 2006, the City Council, by Resolution No. 2006-185, approved a reimbursement agreement with Stanislaus County and Stanislaus Council of Governments (StanCOG) for the cost of project coordination services for the SR 219 Widening and Dale/Kiernan intersection improvement projects with the cost to the City not to exceed $60,000, and

WHEREAS, over the last year Gray-Bowen and Company (Gray-Bowen) has provided professional services to help navigate Caltrans' processes and expedite the delivery of these critical and complex transportation projects, and

WHEREAS, Gray-Bowen lobbied on behalf of the City and Stanislaus County to acquire additional funding for the projects, and

WHEREAS, as a result of the efforts of Gray-Bowen and CTC Commissioner Kirk Lindsey, Stanislaus County received $33.57 million in Proposition 1B Corridor Mobility Improvement Account (CMIA) bond funding, and

WHEREAS, an increase in the scope and budget for the Agreement are necessary due to the addition of Phase 2 of the SR 219 Widening which will widen SR 219 from 2 to 4 lanes from just east of Dale Road to McHenry Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the reimbursement agreement with Stanislaus County and Stanislaus Council of Governments (StanCOG) to increase the City's contract amount by $90,000 for project coordination services for the SR 219 Widening from SR 99 to McHenry Avenue and Dale/Kiernan intersection improvement projects with the cost to the City not to exceed $150,000.00,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-333

A RESOLUTION APPROVING AN APPROPRIATION TRANSFER OF $90,000 FROM GAS TAX RESERVES (07-0700-800-8000-8003) TO SR 219 PROJECT COORDINATION SERVICES (MY-2370-160-E520-6080) FOR PROJECT COORDINATION SERVICES OF THE SR 219 WIDENING FROM SR99 TO MCHENRY AVENUE AND DALE/KIERNAN INTERSECTION IMPROVEMENT PROJECTS BY GRAY-BOWEN AND COMPANY.

WHEREAS, on April 4, 2006, the City Council, by Resolution No. **2006-185**, approved a reimbursement agreement with Stanislaus County and Stanislaus Council of Governments (StanCOG) for the cost of project coordination services for the SR 219 Widening and Dale/Kiernan intersection improvement projects with the cost to the City not to exceed $60,000, and

WHEREAS, an increase in the scope and budget for the Agreement are necessary due to the addition of Phase 2 of the SR 219 Widening which will widen SR 219 from 2 to 4 lanes from just east of Dale Road to McHenry Avenue, and

WHEREAS, staff proposes allocating $90,000.00 from Gas Tax Reserves (07-0700-800-8000-8003) to SR 219 Project Coordination Services (MY-2370-160-E520-6080) for project coordination services of the SR219 Widening from SR 99 to McHenry Avenue and Dale Kiernan intersection improvement projects by Gray-Bowen and Company.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following appropriation is hereby approved to provide the funding for said fiscal impact analysis:

Appropriations

FROM:	07-0700-800-8000-8003	$90,000
TO:	MY-2370-160-E520-6080	$ 90,000

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary budget adjustments in coordination with the Finance Department to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-334

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A TRIMBLE S6 3" ROBOTIC TOTAL STATION, FOR THE PUBLIC WORKS DEPARTMENT, CONSTRUCTION ADMINSTRATION DIVISION, TO CALIFORNIA SURVEYING & DRAFTING SUPPLY, INC., FRESNO, CA, FOR A TOTAL ESTIMATED COST OF $40,836

WHEREAS, the Public Works Department, Construction Administration Division has a Topcon 802AR Robotic Total Station and a Trimble 5800 GPS Rover and Base Station, and

WHEREAS, the Robotic Total Station is old, worn out and in need of replacement and Construction Administration Division has requested replacing this unit with a new Trimble S6 3" Robotic Total Station, and

WHEREAS, the Trimble S6 3" Robotic Total Station will integrate seamlessly with the existing Trimble 5800 GPS Equipment and Trimble GIS Equipment, and

WHEREAS, by using equipment designed to work together, the Trimble Total Station (S6) with the Trimble GPS Equipment will be more productive and efficient, and

WHEREAS, on January 2, 2007, the City Council approved Resolution No. 2007-032 authorizing the Purchasing Manager to issue informal Request for Bids (RFB) for a three (3) year lease purchase of a Trimble S6 3" Robotic Total Station, for the Public Works Department, Construction Administration Division, and

WHEREAS, on February 9, 2007, the Purchasing Division issued RFB No. INF07-09 for a three (3) year lease purchase of a Trimble S6 3" Robotic Total Station to five (5) prospective bidders, none of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on March 9, 2007, RFB's were opened in the Purchasing Division, and of the five (5) prospective bidders, one (1) company chose to respond, and

WHEREAS, California Surveying & Drafting Supply, Inc., provided a Master State Municipal Lease/Purchase Agreement with an amortized rate of 9.45%. The amortized rate was deemed too excessive and the determination was made to fund the piece of equipment as a one-time expenditure, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of a Trimble S6 3" Robotic Total Station, for the Public Works Department, Construction Administration Division, to California Surveying & Drafting Supply, Inc., Fresno, CA, for a total estimated cost of $40,836, and

WHEREAS, Modesto Municipal Code Section 8-3.204 states, "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 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". The award of bid and contract to California Surveying & Drafting Supply, Inc., for the purchase of a Trimble S6 3" Robotic Total Station conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of a Trimble S6 3" Robotic Total Station, for the Public Works Department, Construction Administration

Division, to California Surveying & Drafting Supply, Inc., Fresno, CA, for a total estimated cost of $40,836.

BE IT FURTHER RESOLVED that the Purchasing Manager will issue a purchase order for the purchase of a Trimble S6 3" Robotic Total Station, for the Public Works Department, Construction Administration Division, to California Surveying & Drafting Supply, Inc., Fresno, CA, for a total estimated cost of $40,836.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-335

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE FURNISHING OF WATER QUALITY TESTING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $240,000

WHEREAS, the City of Modesto's drinking water system is the largest domestic water system in the area, with over 70,000 active water services, and

WHEREAS, during the calendar year 2006, the City of Modesto performed over 7,000 bacteriological and 2,500 Title 22 Compliance samplings to ensure safe drinking water for the City's approximately 216,000 customers, and

WHEREAS, the size and complexity of the City of Modesto's water system places the City under the strictest Federal and State regulations for water quality testing. The Federal Environmental Protection Agency (EPA) requires a different set of Unregulated Chemical Monitoring, which falls under strict protocols for testing methods, including special laboratory certification and reporting requirements, and

WHEREAS, some of the general testing requirements are assigned to the City of Modesto Water Quality Control Laboratory, other testing is assigned to various commercial laboratories depending on their certifications and areas of expertise, and

WHEREAS, purchase agreements are due to expire in 2007, and

WHEREAS, by issuing formal RFB's, the City can achieve the best value for dollars spent and meet Modesto Municipal Code requirements for formal bids, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Bid for the furnishing of water quality testing services conforms to the Modesto Municipal Code,

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

SECTION 1. The City Clerk is hereby authorized to advertise the call for public formal bids for the furnishing of water quality testing services for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened they will be tabulated and analyzed by the Purchasing Division, and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: SAWood
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-336

A RESOLUTION ESTABLISHING THE CALCULATION FOR THE APPROPRIATION LIMIT FOR THE FISCAL YEAR 2007-2008 ANNUAL BUDGET

WHEREAS, Proposition 4 of the California State Constitution requires the City to establish an appropriation limit calculation each fiscal year, and

WHEREAS, Article XIIIB of the California Constitution specifies that appropriations made by State and local governments may increase annually by a factor comprised of the change in population combined with either the change in California per capita personal income or the change in the local assessment roll due to local nonresidential construction, and

WHEREAS, the attached schedule shows the preferred price and population factors to be used and the appropriation limit with the recommended factors in calculating the limit are the price factor of "state growth in per capita income" and the population factor of "growth rate in Stanislaus County", and

WHEREAS, a copy of said report is on file in the City of Modesto Finance Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appropriation limit calculation is hereby established as shown on **Schedule A**, attached hereto, and made a part hereof.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, 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
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

SCHEDULE A

FY2007-2008

PROPOSITION 4

APPROPRIATION LIMIT CALCULATION

FY2006-2007 Appropriation Limit		$299,273,819
Adjustment Factors		
Per Capita Personal Income Change	4.42%	
Population Change (Stanislaus County)	1.57%	
Per Capita converted to a ratio	1.0442	
Population converted to a ratio	1.0157	
Calculation of factor for FY2007-2008	1.0606	
Adjustment		$18,135,993
FY2007-2008 Appropriation Limit		$317,409,812

Article XIIIB places a limit on most, but not all, government revenue sources. The limit applies to appropriations from proceeds of taxes from both the general fund and special funds of government entities. Proceeds of taxes include tax revenues, interest earnings on invested tax revenues, and any revenues collected by a regulatory license fee or user charge in excess of the amount needed to cover the cost of providing the regulation, product, or service.

Appropriations from nontax revenues, including the City's enterprise funds, are not subject to the limit.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-337

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE FISCAL YEAR 2006-2007 LOCAL TRANSPORTATION FUND (LTF) CLAIM FOR NON-TRANSIT PURPOSES FOR $3,722,276

WHEREAS, on June 6, 2006, the City Council approved the fiscal year 2006-2007 annual claim for Local Transportation Funds (LTF) for transit purposes only, and

WHEREAS, on February 8, 2006, the Stanislaus Council of Governments (StanCOG) pursuant to California State Public Utility Codes (PUC) Section 99401.6 determined that there are no unmet transit needs or that there are no unmet transit needs that are reasonable to meet, and

WHEREAS, StanCOG has informed the Finance Department that it will allocate both the Annual and Supplemental LTF for use on local streets and roads pursuant to PUC Sections 99400 and 99233.11, and

WHEREAS, StanCOG has informed the Finance Department that it has allocated both the Annual and Supplemental LTF for pedestrian and bicycle facilities use pursuant to PUC Sections 99233.3 and 99234, and

WHEREAS, StanCOG has informed the Finance Department that the City of Modesto may claim $3,541,751 of Annual fiscal year 2006-2007 LTF and 2005-06 supplemental for street purposes, and $180,525 for pedestrian and bicycle projects, and

WHEREAS, Council action authorizing the above claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be released to the City of Modesto, and

WHEREAS, the City of Modesto had a $1,934,909 carryover of fiscal year 2005-2006 LTF funded Operations and Capital Improvement Project budget projects to fiscal year 2006-2007, and

WHEREAS, Council action authorizing the carryover claim is required by StanCOG pursuant to PUC Section 99261,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and authorizes the execution and submission of the claim for apportionment of the fiscal year 2006-2007 Annual ($3,105,680) and fiscal year 2005-2006 Supplemental LTF ($616,596) to StanCOG to obtain non-transit funds in the amount of $3,722,276.

BE IT FURTHER RESOLVED, by the Council of the City of Modesto that it hereby approves and authorizes the execution and submission of the claim for apportionment of $1,934,909 of carryover funds from fiscal year 2005-2006 to fiscal year 2006-2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

Ayes.	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
Noes:	Councilmembers:	None
Absent:	Councilmembers	None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-338

RESOLUTION AUTHORIZING THE AWARD OF THE FORMAL REQUEST FOR BID AND CONTRACT FOR ROOF REPLACEMENT AT FIRE STATION 5 AND FIRE STATION 10, TO UNIVERSAL COATINGS OF FRESNO, CALIFORNIA, FOR AN ESTIMATED COST OF $120,832.

WHEREAS, Fire Station 5's roof was last replaced in 1991, and

WHEREAS, at the time of installation the warranty on this roof was 10 years, and

WHEREAS, the roof has been in place for 16 years and has deteriorated to a point where it is no longer cost effective to repair, and

WHEREAS, Fire Station 10's roof has not been replaced since the Modesto Fire Department moved into the Station in 1993, and

WHEREAS, the roof had been in place some time prior to our arrival, and

WHEREAS, the roof has deteriorated to a point where it is no longer cost effective to repair, and

WHEREAS, on April 24, 2007, by Resolution No. 2007-224 the Council approved the formal solicitation of bids for roof replacement, and

WHEREAS, bids were solicited from fourteen (14) companies, and

WHEREAS, the bid specification was also posted on the City's web site and formally advertised by the City Clerk's office, and

WHEREAS, one (1) company responded with a valid bid, and

WHEREAS, Universal Coatings' bid was for $120,832 for both Fire Station 5 and Station 10's roof replacement, with a dry rot repair rate of $6.50 per square foot, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases meeting or exceeding $50,000 for materials, equipment or contractual services to be formally bid and awarded to the lowest responsive and responsible bidder, and

WHEREAS, the funds for the roof replacements have been appropriated in account number 0100-180-1810-5900, Non-CIP,

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

SECTION 1. The formal Request for Bids for roof replacement at Fire Station 5 and Fire Station 10 is hereby awarded to Universal Coatings, of Fresno, for an estimated cost of $120,832.

SECTION 2. The repair of any dry rot found will be made at a rated of $6.50 per square foot.

SECTION 3. The City Manager, or designee, is authorized to execute the contract for roof replacement to Universal Coatings of Fresno.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-339

A RESOLUTION AUTHORIZING STAFF TO ENTER INTO NEGOTIATIONS WITH THE WEST MODESTO KING-KENNEDY NEIGHBORHOOD COLLABORATIVE (COLLABORATIVE), FOR TERMS AND CONDITIONS OF A "MANAGEMENT AGREEMENT" FOR THE DAY-TO-DAY OPERATION OF THE KING-KENNEDY MEMORIAL CENTER (KKMC).

WHEREAS, in March 1966, the Westside Neighborhood Center Steering Committee was formed to address some of the social issues which were occurring on the west side of Modesto, and

WHEREAS, the Westside Neighborhood Center, Inc. (WNCI), a non-profit organization, requested that the City of Modesto file an application with the federal Housing and Urban Development Department (HUD) for funds to construct a neighborhood center under the Neighborhood Facilities Grant Program, and

WHEREAS, in March 1968, the City of Modesto entered into an agreement with WNCI, which stated that, WNCI would operate and staff the new facility which was designed to carry out a program of health, recreational, social or similar community services, and

WHEREAS, in January 1969, the City and WNCI entered into another agreement which stated that due to the lack of an anticipated funding source, WNCI did not have the funding to operate the new facility, and according to the application filed with HUD for the building funds, the City of Modesto made a commitment to operate the neighborhood facility, and

WHEREAS, in May 1969, the name of the community center was changed to the King-Kennedy Memorial Center (KKMC), and a dedication ceremony occurred on June 29, 1969, and

WHEREAS, the City of Modesto dedicates $407,890 annually for the facilities, staffing and programming budget at KKMC, and

WHEREAS, On May 23, 2006, by Resolution No. 2006-317, the City Council authorized staff from the Parks, Recreation and Neighborhoods Department (PRND) to invite qualified and involved non-profit 501(c) 3 organizations to submit "Letters of Interest" for consideration to enter into a Management Agreement with the City of Modesto to operate KKMC, and

WHEREAS, in June 2006, a "Request of Interest (RFI)" was sent to non-profit organizations that serve the City of Modesto, and

WHEREAS, only one non-profit organization, the West Modesto King-Kennedy Neighborhood Collaborative (Collaborative), responded to the RFI, and

WHEREAS, the Collaborative stated that they were interested in operating the KKMC on a daily basis and working with the City of Modesto to enter into a management agreement regarding the KKMC facility, and

WHEREAS, the Collaborative submitted responses to questions related to the oversight and management of the facility, which were reviewed by staff and discussed at a King-Kennedy Board of Directors meeting, and

WHEREAS, the King-Kennedy Board voted unanimously for City staff to continue to pursue the management agreement concept with the Collaborative, and

WHEREAS, staff of PRND believes the conditions are right to enter into negotiations with the Collaborative for terms and conditions of a Management Agreement for the day-to-day operations of KKMC, and

WHEREAS, the Safety and Communities Committee met on May 7, 2007, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to enter into negotiations with the Collaborative, for terms and conditions of a "Management Agreement" for the day-to-day operations of KKMC.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-340

A RESOLUTION APPROVING THE FIRST AMENDMENT TO STANDARD AGREEMENT FOR CONTRACT SERVICES WITH COMMUNITY REINVESTMENT FUND, INC. FOR LOAN SERVICING OF EXISTING AND FUTURE LOANS, EXTENDING THE AGREEMENT FOR AN ADDITIONAL TWO (2) YEAR PERIOD TO JUNE 30, 2009, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FIRST AMENDMENT TO AGREEMENT.

WHEREAS, the City of Modesto's (City's) loan portfolio includes housing rehabilitation loans, down payment assistance loans, HOME loans, Redevelopment Agency loans, and Capital Facilities Fees, and

WHEREAS, in 1994, Community Reinvestment Fund (CRF) began loan servicing the City's portfolio, and

WHEREAS, in 2004, a new Request for Qualifications for loan servicing was issued and Community Reinvestment Fund was again awarded the City's loan servicing, and

WHEREAS, the current agreement will expire on June 30, 2007, and

WHEREAS, by mutual agreement of CRF and the City, the Agreement can be amended for two (2) one-year extensions, with the Agreement expiring on June 30, 2009, and

WHEREAS, the current loan portfolio for housing rehabilitation loans and down payment assistance loans consists of 175 loans totaling $4.6 million, and

WHEREAS, staff continues to be pleased with the service provided by this non-profit, community development lender based in Minneapolis, Minnesota, and

WHEREAS, pricing for this First Amendment will remain the same, and

WHEREAS, the servicing includes the processing of monthly payments, sending payment coupons to customers, a toll free number for customers, collection efforts on past due loans, insurance tracking, processing of demand statements and subsequent payoffs, monthly

reports to the City, and a monthly remittance to the City for funds collected on the serviced loans, and

WHEREAS, the City remains responsible for collection efforts on loans past due more than 90 days, follow-up for needed fire insurance, and releasing all liens for loans that have been paid, and

WHEREAS, staff recommends that the City continue to use CRF for loan servicing, and

WHEREAS, the Housing Rehabilitation Loan Committee (HRLC) met on May 17, 2007, and supported staff's recommendation, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on May 18, 2007, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the *First Amendment to Standard Agreement for Contract Services* with Community Reinvestment Fund, Inc. for loan servicing of existing and future loans, extending the Agreement for an additional two (2) year period to June 30, 2009.

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

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-341

A RESOLUTION APPROVING A TASK-BASED AGREEMENT WITH SCS ENGINEERS FOR THE SITE ASSESSMENT AND DEVELOPMENT OF A METHANE GAS MITIGATION AND MONITORING PLAN FOR THE CLOSED CARPENTER ROAD LANDFILL IN AN AMOUNT NOT-TO-EXCEED $299,500, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Modesto operated the Carpenter Road landfill from 1956 until its closure in 1968, and the landfill includes fill sites on both the west and east sides of Carpenter Road, in between Kenneth and Robertson Roads and the Tuolumne River, and

WHEREAS, the site encompasses approximately 37 acres, and in the future will become part of the Tuolumne River Regional Park (TRRP), and

WHEREAS, although TRRP is currently under the jurisdiction of a Joint Powers Authority, the landfill site is still owned by the City of Modesto (City) and maintenance and repair are the City's responsibility, and

WHEREAS, in December 2005, and in subsequent months, methane gas levels in one of the monitoring wells on the property exceeded the permitted levels, and

WHEREAS, the California Integrated Waste Management Board (CIWMB) and the Regional Water Quality Control Board (RWQCB) have directed the City to determine the cause of the high readings, and

WHEREAS, on January 2, 2007, by Resolution No. 2007-040, the City Council authorized staff to issue a request for proposals from qualified firms to conduct a Site Assessment and prepare a Mitigation and Monitoring Plan for the closed Carpenter Road Landfill, and

WHEREAS, on January 2, 2007, by Resolution No. 2007-041, the Council authorized a loan of $150,000 from the General Fund to the Solid Waste Fund to cover the cost of the Site Assessment and Plan development, and

WHEREAS, this loan will be reimbursed to the General Fund from the Solid Waste Fund via revenues from a fee imposed on the monthly garbage rates once the cost of the work is known, and

WHEREAS, staff prepared a Request for Proposals (RFP), which was issued on February 2, 2007, with a due date of March 5, 2007, and the RFP was sent to eight (8) firms directly and posted on the City's web site, and

WHEREAS, Addendum #1 to the RFP, the Standard Consultant Agreement, was issued on February 7, 2007, and

WHEREAS, the Proposal submittal deadline was extended to March 19, 2007, to allow additional time to submit Proposals, and

WHEREAS, in response to questions received on the RFP, Addendum #2, which contained answers to the questions submitted by prospective bidders, was issued on March 7, 2007, and

WHEREAS, proposals were received from SCS Engineers and Geomatrix, and both proposals were found to be complete and responsive, and

WHEREAS, staff then conducted interviews with the two firms, and based on the proposals and the interviews, staff is recommending that the Council approve a professional services Agreement with SCS Engineers to provide these services, and

WHEREAS, due to the uncertainties of what the contractor may find in the Site Assessment and what mitigation measures may be required based on those findings, work under this Areement will be conducted in phases, on a "task basis" for each phase, and

WHEREAS, Phase 1 and Phase 2 will consist of a review of historical information about the site, the preparation of a work plan, the actual physical site investigation, and the preparation of a draft Mitigation and Monitoring Plan, as well as meetings with staff and the regulatory agencies, and

WHEREAS, depending on the findings of Phases 1 and 2, it may not be necessary to proceed with Phases 3 – 5, which would include design and plan preparation for a gas mitigation system, and assistance with construction administration for the installation of the system, and

WHEREAS, the Agreement is structured to reflect that the contractor cannot proceed with a phase without staff approval, and

WHEREAS, the not-to-exceed cost for Phases 1 and 2 is $118,000, and

WHEREAS, the total not-to-exceed cost for all phases is $299,500,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a task-based agreement with SCS Engineers for the Site Assessment and development of a Methane Gas Mitigation and Monitoring Plan for the closed Carpenter Road Landfill in an amount not-to-exceed $299,500.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-342

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for the classification of Airport Manager. The job specification for this classification is being amended to update the essential functions to more accurately reflect the current needs of the City. The job specification for the classification of Airport Manager, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 12, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
NO. 2301

~~NOVEMBER 2003~~
June 2007

AIRPORT MANAGER

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To plan, organize, monitor, and direct the use, maintenance and security of the City/County Airport; to promote the development of airport facilities; and to coordinate airport activities with other City departments.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Department Director or Deputy Director ~~Engineering and Transportation Director~~.

Exercises direct supervision over technical, maintenance and clerical staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Manage, direct and organize airport facilities maintenance activities including pavements, drainage and sewer systems, lighting and electrical facilities, buildings, furnishings, landscaping, and grounds.

Direct, oversee and participate in the development of the airport master plan and strategic plan; assign work activities, projects and programs; monitor work flow; implement policies and procedures; review and evaluate work products, methods and procedures.

Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

Establish and ensure the carrying out of a proper preventive maintenance program; coordinate contractor and staff maintenance ~~activities with the airlines and Federal Aviation Administration~~.

Monitor commercial and private aircraft operations for compliance with local, State and Federal laws; monitor vendor operations and review vendor performance reports.

Essential Functions: (Continued)

Prepare and ~~i~~Issue public notices and press releases regarding ~~the status of the~~ airport operations and events; conduct media interviews.

Assume responsibility for the security and protection of publicly and privately owned aircraft and property; establish and carry out a passenger-screening program mandated by Federal regulations.

Recommend goals and objectives; assist in the development of policies and procedures; evaluate the need for and develop plans for long-range airport programs; conduct studies for improving airport facilities and services; prepare and implement marketing plans.

Handle daily business transactions including answering correspondence, responding to complaints, authorize purchases ~~ordering supplies~~, and certifying payroll records.

Negotiates and administers lease agreements with Fixed Based Operators, tenant hangar leases, ground agreements, airport rental car fleet, and commercial business leases; conduct lease negotiations; assign spaces and keep records of aircraft parking and rentals.

Update security manuals and airport certification manuals; coordinate Transportation Security Administration mandated security requirements; coordinate emergency training and drills, mobilize staff in emergencies.

Prepare the airport operating and capital improvement budgets; assist in budget implementation; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administer the approved budget.

Promote public relations; meet with the airport advisory committees, train AAC members and coordinate AAC meetings; act as liaison to public organizations~~,~~ and ~~representatives of~~ government agencies.

Prepare applications for Federal and State grants; monitor the grant programs to ensure compliance with requirements.

Maintain records of airport operations; conduct research and prepare reports.

Manage collection of Passenger Facility ~~Fees~~ Charges and coordinate PFFC funded projects to ensure program compliance, oversee update of the PFC, impose and use application.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Effective Principles and practices of municipal airport management.

Federal Aviation Administration rules and regulations affecting airport operations.

Preparation and negotiation of airport leases, contracts, and charges.

Development, practices, and terminology of aviation.

Equipment and supplies used in airport operations.

Proper maintenance of airport facilities.

Airport security and emergency plans.

Budgeting procedures and techniques.

Personal computer software applications.

Principles and practices of supervision, training and personnel management.

Ability to:

Plan, organize and direct airport maintenance, security, and operations.

Analyze technical information regarding airport usage and maintenance.

Conduct business negotiations and promote and represent the airport programs, including air service development.

~~Pilot and operate an airplane.~~

Monitor airport usage.

Supervise, train and evaluate assigned staff.

Prepare and administer a budget.

Ability to: (Continued)

Work under the pressure of deadlines; analyze, research, and solve a wide range of problems.

Establish and maintain airport security and certification programs.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain cooperative working relationships with those contacted in the course of work.

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Four years of increasingly responsible experience in airport management or operations of an airport served by a certified air carrier.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in aviation management or a related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Accreditation by the American Association of Airport Executives is preferred. Successful candidate must obtain this accreditation within two years of appointment to the position.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 10 pounds; occasionally up to 25 pounds. **Vision**: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity**: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking, in person and on the phone. **Emotional/Psychological**: frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental**: frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Some positions may be assigned to remote locations. Positions may require occasional overtime or weekend work and occasional travel from site-to-site.

~~Environmental Conditions:~~

~~Office and field environment.~~

~~Physical Conditions:~~

~~Essential and marginal functions may require maintaining physical condition for sitting for prolonged periods of time; attending meetings; using a personal computer and related office equipment and traveling from site-to-site.~~

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-343

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification at Salary Range 419:

Workers' Compensation Claims Assistant

This classification is being created to perform technical clerical work in support of the City's self-administered Workers' Compensation Program. The job specification for the classification of Workers' Compensation Claims Assistant, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 12, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO June 2007
No. 3749

WORKERS' COMPENSATION CLAIMS ASSISTANT

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

Under general supervision, to perform specialized technical clerical work on "medical only" claims and other auxiliary tasks associated with claims in support of the City's self-administered Workers' Compensation Program; and to provide technical clerical assistance to the Risk Management Division of the Personnel Department.

SUPERVISION RECEIVED AND EXERCISED

Receives direct supervision from higher level supervisory and management staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Review a variety of documents in a timely manner to determine proper action for medical only claims.

Respond to and advise internal customers on laws, rules and regulations related to medical only claims.

Negotiate optimum medical recovery through contact with employer, employee and medical provider.

Process and approve related bills indicating the correct amounts to be paid per the California Fee Schedule, Labor Code, and Risk Management guidelines.

Establish and maintain monetary reserves related to medical costs.

Keep current and maintain updates of regulations and procedures used in the administration of medical only claims.

May set up new claims and create files; update claims diary.

Compose memos, correspondence and notes to the claims diary.

Marginal Functions:

Perform general clerical duties as required.

Perform other related duties as assigned.

QUALIFICATIONS:

Knowledge of:

Workers' Compensation laws and regulations as applied to medical only claims.

Basic principles of general mathematics.

Applicable computer software programs.

English usage, spelling, grammar and punctuation.

Principles and procedures of record keeping.

Ability to:

Analyze and interpret a variety of medical documents, policies, related procedures, rules and regulations.

Type and use various software systems; work accurately with figures.

Maintain confidential records; interpret and effectively communicate policies and procedures.

Respond to the internal and external customers tactfully and courteously; take decisive action.

Communicate in a clear and concise manner both verbally and in writing.

Identify and analyze potential problems, situations and needs; carry out solutions.

Establish and maintain cooperative working relationships with those contacted in the course of work.

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Two years of experience in the adjustment and evaluation of Workers' Compensation medical only claims or a closely related field. Familiarity with claims management systems, experience with medical billing and knowledge of the Official Medical Fee Schedule is desirable.

Training:

Equivalent to completion of the twelfth grade, supplemented by college level coursework in medical billing, insurance, business administration or a closely related field.

License or Certificates:

Possession of or the ability to obtain a valid Class C California Drivers License.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 10 pounds; occasionally up to 25 pounds. **Vision**: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity**: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking, in person and on the phone. **Emotional/Psychological**: frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental**: frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-344

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-321 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD WORKERS' COMPENSATION CLAIMS ASSISTANT AT SALARY RANGE 419.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-321, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2006-321 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective May 23, 2006", attached to Resolution No. 2006-321, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective June 12, 2007," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" adds the classification of Workers' Compensation Claims Assistant at Salary Range 419 ($3,462-$4,219 per month) to the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 12, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th Day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective June 12, 2007

RANGE	TITLE
403	
407	Administrative Clerk II (Confidential) Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Administrative Technician (Confidential)
414	
415	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential) **Workers' Compensation Claims Assistant**
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

Exhibit "A"

RANGE	TITLE
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor Parking Services Supervisor
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Supervising Animal Control Officer Police Civilian Supervisor Stores Manager Systems Technician III
427	Assistant City Clerk/Auditor Legal Services Administrator Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Junior Civil Engineer Junior Traffic Engineer Senior Crime Analyst Software Analyst I
431	Administrative Analyst II Assistant Risk Manager Budget Analyst I Personnel Analyst Recycling Program Coordinator

RANGE	TITLE
432	Communications Specialist Compost Facility Supervisor Customer Services Supervisor Neighborhood Preservation Supervisor Operations and Maintenance Supervisor Recreation Supervisor II Senior Accountant Water Quality Control Maintenance Supervisor Water Quality Control Operations Supervisor
433	Organizational Development Specialist
434	Assistant Civil Engineer Assistant Traffic Engineer Budget Analyst II Environmental Laboratory Supervisor Operations Supervisor Regulatory Compliance Supervisor SCADA Supervisor Senior Community Development Program Specialist Senior Housing Rehabilitation Specialist Software Analyst II Supervising Accountant Systems Engineer I
435	Business Analyst Cultural Services Manager Emergency Medical Services Coordinator Integrated Waste Specialist Management Analyst Senior Personnel Analyst Weed and Seed Program Coordinator
436	Electrical Supervisor Senior Planner
437	

RANGE	TITLE
438	Budget Officer
	Events Supervisor
	Housing Program Supervisor
	Land Surveyor
	Property Agent
	Public Safety Business Services Analyst
	Senior Business Analyst
	Software Analyst III
	Systems Engineer II
439	Administrative Services Officer
	Community Facilities Districts Administrative Officer
440	Associate Civil Engineer
	Associate Traffic Engineer
	Transportation Planner
441	Airport Manager
	Building Maintenance Superintendent
	Fleet Manager
	Housing and Urban Development Manager
	Parks Operations Superintendent
	Parks Planning and Development Manager
	Purchasing Manager
	Recreation Program Manager
	Streets Superintendent
	Urban Forestry Superintendent
	Wastewater Collections Superintendent
	Water Superintendent
442	Customer Services Division Manager
	Manager of Budget and Financial Analysis
	Software Analyst IV
	Supervising Building Inspector
	Supervising Construction Inspector
	Systems Engineer III
443	

RANGE	TITLE
444	Deputy Chief Building Official Principal Planner Solid Waste Program Manager Transit Manager
445	Accounting Division Manager
446	Information Technology Unit Manager Wastewater Treatment Plant Manager
447	Business Development Division Manager Chief Building Official Planning Division Manager Senior Civil Engineer Traffic Engineer
448	
449	
450	
451	
452	
453	
455	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-345

A RESOLUTION APPROVING A ONE-YEAR AGREEMENT FOR TESTING SERVICES WITH QUALITY CONTROL INSPECTION, INC., TO PERFORM CONSTRUCTION MATERIALS TESTING SERVICES FOR VARIOUS PUBLIC WORKS PROJECTS TO BE CONSTRUCTED DURING THE 2007/2008 FISCAL YEAR, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF CITY, IN AN AMOUNT NOT-TO-EXCEED $65,035 IN THE FIRST YEAR, $65,035 IN THE SECOND YEAR AND $65,035 IN THE THIRD YEAR; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT AND UP TO TWO (2) ONE-YEAR EXTENSION OPTIONS. TOTAL COST FOR THREE (3) YEARS IS NOT TO EXCEED $195,105

WHEREAS, City staff finds it necessary to utilize the services of a materials testing firm during the course of administering the construction on public improvement projects, and

WHEREAS, the testing services are required to help achieve compliance with the specification requirements of the various projects, and

WHEREAS, staff does not have the required equipment or certifications to perform all the required testing services, and

WHEREAS, bids were opened on April 24, 2007, for the Construction Materials Testing Services contract, and

WHEREAS, the firm of Quality Control Inspection, Inc., was the low responsive bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one-year Agreement for Testing Services between the City of Modesto and Quality Control Inspection, Inc., to perform Construction Materials Testing Services for various Public Works projects to be constructed during the 2007/2008 fiscal year, with two (2) one-year extension options, at the sole discretion of City, in an amount

not-to-exceed $65,035 in the first year, $65,035 in the second year and $65,035 in the third year. Total cost for three years is not to exceed $195,105.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement and up to two (2) one-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-346

A RESOLUTION APPROVING THE ACCEPTANCE OF A GRANT IN THE AMOUNT OF $325,787 FROM THE CALIFORNIA AIR RESOURCES BOARD (ARB) TO FUND THE REPLACEMENT OF FOUR (4) BACKHOES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT ACCEPTANCE ON BEHALF OF THE CITY.

WHEREAS, over the past several years, the California Air Resources Board (ARB) has been considering opportunities to reduce Particulate Matter and Nitrous Oxide emissions from off-road, diesel-powered construction equipment, and

WHEREAS, new rules being considered in 2007 will require owners to replace, repower, retrofit, or retire all non-compliant equipment over a ten-year period, and

WHEREAS, in the 2006-2007 State of California Budget, the ARB proposed an allocation of $25 million in grants to public agencies for the purchase of low-polluting construction equipment, and,

WHEREAS, the City of Modesto was notified on May 8, 2007, that it had been awarded a grant in the amount of $325,787 for the purchase of four (4) low-polluting construction equipment units and to retrofit the engines with certified emission-reduction technology, and

WHEREAS, the terms of the Grant program require twenty-five percent (25%) matching funds for the purchase of replacement equipment, and provide full funding for retrofit devices that further reduce emissions, and

WHEREAS, funds are budgeted in the Fleet Replacement Reserve fund to cover these matching funds, and

WHEREAS, accepting the Grant offers a significant savings over the full purchase price of this equipment, and

WHEREAS, this Grant offer must be accepted on or before June 30, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acceptance of a Grant in the amount of $325,787 from the California Air Resources Board to fund the replacement of four (4) backhoes.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the grant acceptance on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carrier and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-347

A RESOLUTION AMENDING THE OPERATING BUDGET FOR FY 2006-07 AND AUTHORIZING THE APPROPRIATION OF $411,363 FROM THE FLEET REPLACEMENT RESERVE FUND INTO AN EQUIPMENT REPLACEMENT PROJECT TITLED "TRACTOR BACKHOE REPLACEMENT (4 EA)" (7210-480-5814-5XXX).

WHEREAS, over the past several years, the California Air Resources Board (ARB) has been considering opportunities to reduce Particulate Matter and Nitrous Oxide emissions from off-road, diesel-powered construction equipment, and

WHEREAS, new rules being considered in 2007 will require owners to replace, repower, retrofit, or retire all non-compliant equipment over a ten-year period, and

WHEREAS, in the 2006-2007 State of California Budget, the ARB proposed an allocation of $25 million in grants to public agencies for the purchase of low-polluting construction equipment and,

WHEREAS, the City of Modesto was notified on May 8, 2007, that it had been awarded a grant in the amount of $325,787 for the purchase of four (4) low-polluting construction equipment units and to retrofit the engines with certified emission-reduction technology, and

WHEREAS, staff requested the full amount of $411,363 for the full purchase and retrofitting of this equipment, and

WHEREAS, grant funding will be reimbursed up to the amount of the $325,787 once the equipment has been purchased and placed in service, and

WHEREAS, funds are budgeted in the Fleet Replacement Reserve fund to cover these matching funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the adopted Operating Budget for FY 2006-07 and authorizing the appropriation of $411,353 from the Fleet Replacement Reserve Fund into an Equipment Replacement Project titled "Tractor Backhoe Replacement (4 ea)" (7210-480-5814-5XXX).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST:

Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD
City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-348

A RESOLUTION AUTHORIZING THE PURCHASE OF FOUR (4) NEW CATERPILLAR 420E BACKHOE/LOADERS BY "ACCESSING THE TERMS" OF A COMPETITIVELY BID CONTRACT THROUGH HOLT OF CALIFORNIA OF STOCKTON, CA. FOR A TOTAL COST NOT TO EXCEED $342,304.

WHEREAS, over the past several years, the California Air Resources Board (ARB) has been considering opportunities to reduce Particulate Matter and Nitrous Oxide emissions from off-road, diesel-powered construction equipment, and

WHEREAS, new rules being considered in 2007 will require owners to replace, repower, retrofit, or retire all non-compliant equipment over a ten-year period, and

WHEREAS, in the 2006-2007 State of California Budget, the ARB proposed an allocation of $25 million in grants to public agencies for the purchase of low-polluting construction equipment, and,

WHEREAS, the City of Modesto was notified on May 8, 2007, that it had been awarded a grant in the amount of $325,787 for the purchase of four (4) low-polluting construction equipment units and to retrofit the engines with certified emission-reduction technology, and

WHEREAS, City Purchasing and Fleet Services divisions have identified a competitively bid contract by the Modesto Irrigation District (MID) for Caterpillar 420E backhoe/loaders, and

WHEREAS, MID recently awarded a contract for this equipment to Holt of California (Holt) of Stockton, CA, and

WHEREAS, Holt has extended the same base pricing for the backhoe/loader to other governmental agencies, excluding upgrades, and

WHEREAS, the City of Modesto may purchase this equipment by "assessing the terms" through MID's competitively awarded contract with Holt of California of Stockton, CA.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of four (4) new Caterpillar 420E Backhoe/Loaders by "assessing the terms" of a competitively bid contract through Holt of California of Stockton, CA for a total cost not to exceed $342,304.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carrier and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-349

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL TO PREPARE A 35% PROJECT DESIGN AND A PRELIMINARY DESIGN REPORT (PDR) FOR THE EMERALD TRUNK REHABILITATION PROJECT IN AN AMOUNT NOT TO EXCEED $374,931.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, based on the recent analysis prepared for the Wastewater Master Plan, there is a need for rehabilitation of the City's existing collection system, and

WHEREAS, the Wastewater Master Plan identified rehabilitation of the Emerald Trunk based on factors including deterioration, excessive infiltration due to defects, and reliability, and

WHEREAS, City Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, was followed to select a professional engineering design consultant, and

WHEREAS, following a Request for Qualifications for engineering design services, which was sent to approximately 80 engineering firms, seven Statements of Qualifications were received, and

WHEREAS, of the seven Statements of Qualifications, four firms were short listed for proposals and interviews, and

WHEREAS, the firm of Brown and Caldwell was deemed the most qualified and selected for preliminary engineering design services, and

WHEREAS, staff recommends that an agreement with the consulting firm of Brown and Caldwell be approved to perform the pre-design services as the City does not have the staffing level to design these projects and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, the Public Works Director has recommended accepting the proposed agreement with Brown and Caldwell to complete the Preliminary Design Services for the Emerald Trunk Rehabilitation project in an amount not to exceed $374,931.00, and

WHEREAS, Brown and Caldwell will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Brown and Caldwell to prepare a 35% project design and a Preliminary Design Services Report (PDR) for the Emerald Trunk Rehabilitation project in an amount not to exceed $374,931.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-350

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL TO PREPARE A 35% PROJECT DESIGN AND A PRELIMINARY DESIGN REPORT (PDR) FOR THE PARALLEL OUTFALL REHABILITATION PROJECT IN AN AMOUNT NOT TO EXCEED $384,966, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, based on the recent analysis prepared for the Wastewater Master Plan, there is a need for rehabilitation of the City's existing collection system, and

WHEREAS, the Wastewater Master Plan identified rehabilitation of the Parallel Outfall based on factors including deterioration, increasing regulatory control, additional hydraulic capacity, and reliability, and

WHEREAS, City Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, was followed to select a professional engineering design consultant, and

WHEREAS, following a Request for Qualifications for engineering design services, which was sent to approximately 80 engineering firms, seven Statements of Qualifications were received, and

WHEREAS, of the seven Statements of Qualifications, four firms were short listed for proposals and interviews, and

WHEREAS, the firm of Brown and Caldwell was deemed the most qualified and selected for preliminary engineering design services, and

WHEREAS, staff recommends that an agreement with the consulting firm of Brown and Caldwell be approved to perform the pre-design services as the City does not have the staffing level to design these projects and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, the Public Works Director has recommended accepting the proposed agreement with Brown and Caldwell to complete the Preliminary Design Services for the Parallel Outfall Rehabilitation project in an amount not to exceed $384,966.00, and

WHEREAS, Brown and Caldwell will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Brown and Caldwell to prepare a 35% project design and a Preliminary Design Services Report (PDR) for the Parallel Outfall Rehabilitation project in an amount not to exceed $384,966.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-351

A RESOLUTION ACCEPTING THE SYLVAN AVENUE IMPROVEMENT PROJECT BETWEEN MILLBROOK AVENUE AND ROSELLE AVENUE, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION

WHEREAS, the Sylvan Avenue Improvement Project ("IMPROVEMENTS") is located within the Village One Specific Plan area between Roselle Avenue and Millbrook Avenue and includes the widening of Sylvan Avenue from two lanes to four lanes between Millbrook Avenue and Roselle Avenue, and

WHEREAS, the IMPROVEMENTS included the installation of storm drainage, curb, gutter, sidewalks, roadway, landscaped parkways, landscaped medians and a landscaped roundabout at the intersection of Sylvan Avenue and Millbrook Avenue, and

WHEREAS, the IMPROVEMENTS are listed as a Priority 1 project on the Village One Facilities Prioritization List, and

WHEREAS, the Modesto City School District ("MCS") was scheduled to open the new Enochs High School, adjacent to the IMPROVEMENTS in August of 2006, and

WHEREAS the City of Modesto agreed to allow MCS to manage the construction of the IMPROVEMENTS to expedite the installation of IMPROVEMENTS, and

WHEREAS the Council of the City of Modesto, by Resolution No. 2006-15, approved an Acquisition and Shortfall Agreement ("AGREEMENT") on January 10, 2006, between the City of Modesto Community Facilities District No. 2004-1 (Village One #2) and the Modesto City School District for the construction of the IMPROVEMENTS, and

WHEREAS the AGREEMENT stipulated the cost sharing arrangement between MCS and the Community Facilities District No. 2004-1, and

WHEREAS, the City Engineer, in a memorandum to staff, indicates that said IMPROVEMENTS included in the Acquisition and Shortfall Agreement between the City of Modesto Community Facilities District No. 2004-1 (Village One #2), a District created pursuant to the provision of the California Government Code Section 53311.5 et. seq. ("DISTRICT") and the MCS have been completed to the satisfaction of the Public Works Department, and

WHEREAS, MCS filed with the City of Modesto and/or DISTRICT adequate improvement securities to secure faithful performance of this AGREEMENT and to secure payment for labor and materials, and

WHEREAS, MCS has filed a warranty bond to guarantee the IMPROVEMENTS, and

WHEREAS, the City Engineer has indicated that it would be in order for the City Council to accept said IMPROVEMENTS as complete, and authorize the City Clerk to record a Notice of Completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Sylvan Avenue Improvement Project, between Millbrook Avenue and Roselle Avenue, is hereby accepted, and the City Clerk is hereby authorized to record a Notice of Completion for said improvements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-352

A RESOLUTION SUMMARILY VACATING THE STREET RIGHT-OF-WAY FOR TEMPERATE AVENUE, LOCATED BETWEEN 1201 AND 1137 CARPENTER ROAD IN THE CITY OF MODESTO (ALLEN A. BERT)

WHEREAS, Chapter 4, Part 3 of Division 9, Section 8331, et seq of the California Streets and Highway Code authorizes a city council, by resolution, to summarily vacate public streets where the street has been impassable for vehicular travel for five consecutive years, and no public money was expended for maintenance on the street during such period, and

WHEREAS, Allen A. Bert owns two separate parcels separated by a portion of Temperate Avenue, a 50-foot-wide portion of unused and undeveloped right-of-way for Temperate Avenue, property located at 1201 and 1137 Carpenter Road, on the west side of Carpenter Road, south of Woodland Avenue ROW, and

WHEREAS, the ROW was inherited from the County and has never been constructed nor maintained by the City, and

WHEREAS, on or about March 5, 2007, Allen A. Bert received approval for a Vesting Tentative Parcel Map from the Planning Commission which required that the right-of-way be vacated prior to recordation of a final map, and

WHEREAS, the ROW to be abandoned is more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, and

WHEREAS, the Public Works Department contacted all affected City departments and public utility companies, and replies with no objections to the proposed summary street vacation have been received, and

WHEREAS, the Council of the City of Modesto finds and declares that:

1. Streets and Highway Code Section 8331 allows for the summary vacation of a City street or part thereof, if both of the following conditions exist:

(a) For a period of five consecutive years, the street or highway has been impassable for vehicular travel.

(b) No public money was expended for maintenance on the street or highway during such period.

2. This is a project, but is exempt from environmental review. The proposed summary abandonment was previously considered as part of a parcel map approval by the Planning Commission on March 5, 2007. The Proposed abandonment is a condition of approval for that parcel map. CEQA Guidelines, Public Resources Section 15315 which exempts parcel maps of four or fewer parcels which meet the following criteria: the proposed parcel map is in conformance with the General Plan and zoning; no variances or exceptions are required; all services and access to the proposed parcels to local standards are available; the parcel was not involved in a division of a larger parcel within the previous two years; the parcel does not have an average slope greater than 20 percent.

3. The ROW, which is proposed to be summarily vacated is located between 1201, and 1137 Carpenter Road in the City of Modesto. This ROW has never been constructed and therefore has been impassable for over five consecutive years, and

4. The property owner has been maintaining the ROW as part of has own property, therefore no public money has been expended for maintenance of the ROW for over five consecutive years.

5. That from and after the date this resolution is recorded, the street ROW, which is proposed to be summarily vacated, will no longer constitute a public street right-of-way.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the street right-of-way for Temperate Avenue located between 1201, and 1137 Carpenter Road in the City of Modesto, which is more particularly described in **Exhibit "A",** attached hereto and incorporated herein by reference, be and is hereby summarily vacated.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to record a certified copy of this resolution in the Stanislaus County Recorder's Office. From and after the date this resolution is recorded, said street right-of-way shall no longer constitute a public street right-of-way.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"
Legal Description of Temperate Avenue

A portion of Temperate Avenue as shown on the Pleasant Homes Tract according to the map filed in Volume 9 of Maps, Page 67, Stanislaus County Records, lying in the north half of Section 25, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, more particularly described as follows:

The south 25.00 of Lot 4, Block 1 and the North 25.00 feet of Lot 1, Block 12, all as shown on the Pleasant Homes Tract according to the map filed in Volume 9 of Maps, Page 67, Stanislaus County Records.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-353

A RESOLUTION APPROVING AN AGREEMENT FOR THE ACCEPTANCE OF COMPLETED PUBLIC IMPROVEMENTS AND PARTIAL RELEASE OF SECURITY BETWEEN DEL VALLE CAPITAL CORPORATION AND THE CITY OF MODESTO FOR THE GALAS BROTHERS UNIT NO. 1 SUBDIVISION, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND AUTHORIZING THE PUBLIC WORKS DIRECTOR TO RELEASE THE OCCUPANCIES FOR THE REMAINING 41 UNITS IN THE GALAS BROTHERS UNIT NO. 1 SUBDIVISION.

WHEREAS, on December 23, 2003, by Resolution No. 2003-666, the City of Modesto (City) entered into an Agreement to Construct Necessary Infrastructure with Del Valle Capital Corporation (Del Valle) requiring completion of necessary infrastructure prior to final inspection or occupancy within the Galas Brothers Unit No. 1 Subdivision, and

WHEREAS, as part of this agreement, Del Valle posted surety in the form of performance bonds as follows:

Bond No.	Amount
869121S	$ 735,574.40
869122S	$ 2,590,100.00
869123S	$ 2,712,696.33
869124S	$ 2,450,200.00
869125S	$ 2,583,529.27
Total Bond Amount:	**$11,072,100.00**

, and

WHEREAS, securities submitted by Del Valle did not comply with City's standard security requirement for subdivision improvements, and

WHEREAS, as additional security, Del Valle and City agreed, within the 2003 agreement, that no occupancies would be issued until all subdivision improvements were completed, and

WHEREAS, the following shows the phased completion of infrastructure by Del Valle and the subsequent phased release of occupancies for the Galas Brothers Subdivisions:

- On January 25, 2005, by Resolutions 2005-66, Council approved an amendment to the agreement allowing for phasing in of water infrastructure to provide for occupancy for a limited number of units prior to final infrastructure completion. Del Valle paid an additional $100,000 for additional water system improvements and 108 homes were permitted for occupancy on September 21, 2005
- On September 30, 2005, an agreement with Del Valle, D.R. Horton, and Pulte Home Corporation (Del Valle/Developers) and the City provided for funding and construction of interim water infrastructure improvements to support 50 additional units. Del Valle/Developers provided a $1 million deposit to funds these improvements and 50 additional units received occupancy permits
- On November 9, 2005, by Resolution 2005-560, Council approved a Second Amendment to the Del Valle agreement, which required Del Valle/Developers to deposit an additional $242,000 for the estimated project costs exceeding $1.25 million and an additional 58 homes received occupancy permits
- On December 14, 2005, by Resolution 2005-616, Council approved a Third Amendment allowing for 73 additional homes receiving occupancy permits
- On June 27, 2006, by Resolution 2006-407, Council approved a Fourth Amendment allowing for 43 additional homes receiving occupancy permits, and included a prohibition on issuance of any additional building permits beyond the 43 until an agreement is reached for completion of the remaining infrastructure
- On February 2, 2007, a Letter of Agreement with Del Valle Homes, Inc. to Complete the Necessary Infrastructure Improvements for Galas Brothers Unit 1 and Unit 2 Subdivisions was executed. This agreement outlined a schedule for completion for the remaining public improvements for the subdivisions, and the City agreed to release the remaining 50 lots for building permits

WHEREAS, on March 6, 2007 the City accepted a portion of the Public Improvements and placed these public improvement in a one-year maintenance period, and

WHEREAS, the accepted improvements include all of the CFD-funded Storm Drain System Improvements and all Public Improvements for Unit 1 except the Water Booster Pumping Station, Water Well, Water Tank, Yard Piping and Miscellaneous, Well head Treatment, Park improvements, and Street Landscape and Irrigation related to the Galas Brothers Subdivision Unit No. 1, and

WHEREAS, Per §66499.7 of the Subdivision Map Act, Del Valle has applied to City for a partial reduction in the security required based upon Del Valle's completion and City's acceptance of a portion of the Public Improvements, and

WHEREAS, to facilitate a reduction in the security required, Del Valle and City have agreed that the following work must be carried out in order for all of the Public Improvements to be completed:

Improvement	Estimate
Booster Pumping Station	$1,500,000.00
Water Well	$300,000.00
Yard Piping and Misc.	$40,000.00
Well Head Treatment	$1,750,000.00
Landscaping and Irrigation	$336,000.00
Water Tank	$550,000.00
10% Contingency:	$47,600.00
Total Engineer's Estimate:	**$4,923,600.00**

, and

WHEREAS, City agrees with Del Valle's summary of the remaining work and Engineer's Estimate, including contingency, as the amount of security required for guarantying faithful performance of the remaining work, and

WHEREAS, an agreement for acceptance and partial release of security was developed by City staff and allocates the remaining work to Del Valle's bonds as security for the performance of the remaining work, and

WHEREAS, the agreement requires Del Valle to provide security equal to 50% of the Total Engineer's Estimate to satisfy Del Valle's payment bond obligation, and

WHEREAS, approval of the agreement allows the release of $2,712,696.33 in performance bonds, and

WHEREAS, the remaining improvements are mainly related to the wellhead treatment system and City staff is working with Del Valle to facilitate the completion of this system, and

WHEREAS, Del Valle has been making good progress in completing all remaining work related to other improvements such as landscaping, irrigation, and piping, and

WHEREAS, the amount of security is adequate to cover the completion of the remaining improvements and to release the remaining 41 occupancies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement for the acceptance of completed public improvements and the partial release of security between Del Valle Capital Corporation and the City of Modesto for the Galas Brothers Unit No. 1 Subdivision.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the agreement on behalf of the City of Modesto.

BE IT FURTHER RESOLVED that the Council hereby releases Del Valle from the terms and conditions of the Agreement to Construct Necessary Infrastructure, as amended, and authorizes the Public Works Director to release the occupancies for the remaining 41 units in the Galas Brothers Unit No. 1 Subdivision.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carrier and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-354

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE VIRGINIA CORRIDOR PHASE III WITH DOWNSTREAM WATER SYSTEM IMPROVEMENTS PROJECT, ACCEPTING THE BID AND APPROVING A $3,224,959.00 CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT TITLED, "VIRGINIA CORRIDOR PHASE III WITH DOWNSTREAM WATER SYSTEM IMPROVEMENTS," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Virginia Corridor Phase III with Downstream Water System Improvements" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Virginia Corridor Phase III with Downstream Water System Improvements" were opened at 11:00 a.m. on May 15, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $3,224,959.00 received from George Reed, Inc., be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of George Reed, Inc., in the amount $3,224,959.00, and hereby awards George Reed, Inc., the contract titled "Virginia Corridor Phase III with Downstream Water System Improvements".

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-355

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT BUDGET IN ORDER TO FULLY FUND THE CONTRACT WITH GEORGE REED, INC., AND COVER CONSTRUCTION CONTINGENCY AND CONSTRUCTION ADMINISTRATION COSTS BY DECREASING CIP ACCOUNT 2300-310-P712 (VIRGINIA CORRIDOR PHASE II) BY $19,674 AND RETURNING THE FUNDS TO ACCOUNT 2300-800-8000-8003 (CAPITAL GRANTS RESERVES), THEN DECREASING ACCOUNT 2300-800-8000-8003 (CAPITAL GRANTS RESERVES) AND REAPPROPRIATING $19,674 TO CIP ACCOUNT 2300-310-P713 (VIRGINIA CORRIDOR PHASE III); AND DECREASING ACCOUNT 1350-800-8000-8003 (PARKS RESERVES) BY $20,000 AND REAPPROPRIATING $20,000 TO CIP ACCOUNT 2300-310-P713 (VIRGINIA CORRIDOR PHASE III)

WHEREAS, the CIP account 2300-310-P713 (Virginia Corridor Phase III) only provides $3,558,536.31 in available funds to fully fund construction of the Virginia Corridor Phase III project in the estimated total amount of $3,598,210.55, including funding a Contract with George Reed, Inc., for construction and to cover construction contingency and construction administration costs, including contract administration by City staff, and

WHEREAS, certain budgetary transactions are necessary to fully fund said Contract with George Reed, Inc., in the amount of $3,072,357 for construction services, $218,617.85 for construction contingency, and $307,235.70 to cover construction administration costs, including contract administration by City staff, for a total of $3,598,210.55, and

WHEREAS, the CIP Account 2300-310-P712 (Virginia Corridor Phase II) experienced savings due to a favorable bid below the budgeted engineer's estimate for construction, and

WHEREAS, the total amount of $19,674 is to be transferred by decreasing CIP Account 2300-310-P712 (Virginia Corridor Phase II) and returning the funds to Account 2300-800-8000-8003 (Capital Grants Reserves), then decreasing Account 2300-800-

8000-8003 (Capital Grants Reserves) and reappropriating $19,674 to CIP Account 2300-310-P713 (Virginia Corridor Phase III), and

WHEREAS, the total amount of $20,000 is to be transferred by decreasing Account 1350-800-8000-8003 (Parks Reserves) by $20,000 and reappropriating $20,000 to CIP Account 2300-310-P713 (Virginia Corridor Phase III),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the transfer of funds as set forth herein to fully fund the Contract with George Reed, Inc., in the amount of $3,072,357 for construction services, $218,617.85 for construction contingency, and $307,235.70 to cover construction administration costs, including contract administration by City staff, for a total of $3,598,210.55 for the Virginia Corridor Phase III project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-356

Print

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO OF FORMATION, ESTABLISHING CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-1 (NORTH BEYER PARK #2), AUTHORIZING THE LEVY OF SPECIAL TAXES WITHIN THE DISTRICT, PRELIMINARILY ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE DISTRICT, CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE SPECIAL TAXES AND ESTABLISHING THE APPROPRIATIONS LIMIT TO THE QUALIFIED ELECTORS OF THE DISTRICT

WHEREAS, the City Council (the "Council") of the City of Modesto (the "City"), did, on May 8, 2007, adopt its Resolution No. 2007-270, entitled "A Resolution of the City Council of the City of Modesto of Intention to Establish City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2) and Authorize the Levy of Special Taxes Therein" stating its intention to establish its City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2) (the "District"), and levy special taxes therein, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"); and

WHEREAS, Resolution No. 2007-270 (1) describing the proposed boundaries of the District, the name of the District, and the types of facilities (the "Facilities") and services (the "Services") proposed to be financed by the District, (2) providing that, except where funds are otherwise available to pay for the Facilities to be financed by the District, including the incidental expenses thereof, special taxes sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied within the boundaries of the District, (3) specifying the rate, method of apportionment, and manner of collection of the special taxes in sufficient detail to allow each landowner or resident

within the proposed District to estimate the maximum amount that he or she will have to pay, and (4) setting a hearing thereon, is incorporated herein by this reference; and

WHEREAS, notice of the hearing was duly published as required by law, as evidenced by the affidavit of publication on file with the City Clerk; and

WHEREAS, at the time and date set for the hearing, June 12, 2007, this Council held the public hearing as required by law relative to the proposed formation of the District, the levy of the special taxes, and all other matters set forth in Resolution No. 2007-270; and

WHEREAS, at least 15 ays prior to the hearing, a map of the proposed boundaries of the District, entitled "Boundary Map of City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2)" (the "Boundary Map") was recorded pursuant to Section 3111 of the California Streets and Highways Code in the office of the County Recorder of the County of Stanislaus, in Book 4 of Maps of Assessment and Community Facilities Districts, at page 83; and

WHEREAS, prior to the hearing a report (the "Report") containing a description of the Facilities and Services required to adequately meet the needs of the District and an estimate of the cost of providing the Facilities and Services, including, to the extent the purchase of completed Facilities or the payment of incidental expenses is proposed, the estimated fair and reasonable cost thereof, was filed with this Council as a part of the record of the hearing and duly considered by this Council; and

WHEREAS, consultant to the City has recommended that the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-270, be revised to include an enforcement provision. This revision does not increase either the maximum special taxes or the probable special taxes to be paid by the owner of any lot or parcel; and

WHEREAS, staff has recommended that the maximum special taxes set forth in the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-270, be reduced to reflect (1) the removal of landscaping on Oakdale Road because it is a tentative map condition and will be installed by the developer and (2) the removal of maintenance expenses attributed to another parcel that will annex to CFD 2007-1 in the future; and

WHEREAS, at the hearing all persons desiring to be heard on all matters pertaining to the formation of the District, the levy of the special taxes, and all other matters set forth in Resolution No. 2007-270, including all interested persons or taxpayers for or against the establishment of the District, the extent of the District, or the furnishing of specific type or types of Facilities or Services, were heard and considered, and a full and fair hearing was held thereon; and

WHEREAS, at the hearing evidence was presented to this Council on the matters before it, and this Council, at the conclusion of the hearing, was fully advised as to all matters relating to the formation of the District, the levy of the special taxes, and all other matters set forth in Resolution No. 2007-270; and

WHEREAS, written protests against the establishment of the District, the furnishing of specified type or types of Facilities and Services within the District as listed in the Report, or the levying of the special taxes, have not been filed with the City Clerk by fifty percent (50%) or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the District, or the owners of one-half (1/2) or more of the area of land in the territory proposed to be included in the District and not exempt from this special taxes; and

WHEREAS, the Stanislaus County Registrar of Voters has certified there are less than twelve (12) registered voters residing in the District; accordingly, the qualified electors in the District are the landowners; and

WHEREAS, the City Clerk has concurred in the election date herein set forth for the election herein called;

NOW THEREFORE, BE IT RESOLVED, that the Council hereby finds and determines as follows:

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The proposed special taxes to be levied in the District have not been precluded by majority protest pursuant to Section 53324 of the Act. All protests (there were none) to the establishment of the District, the extent thereof, or the furnishing of the Facilities and Services proposed therefore, or the levy of the special taxes proposed to be levied in the District, are hereby overruled.

SECTION 3. As proposed in Resolution No. 2007-270, a community facilities district is hereby established pursuant to the Act, designated "City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2)," the boundaries of which are shown on the Boundary Map.

SECTION 4. (a) The Facilities to be financed by the District are set forth in **Exhibit B** attached hereto and by this reference incorporated herein. The Facilities are public facilities having a useful life of five years or longer.

(b) The Facilities are necessary to meet the increased demands placed upon the City and other local agencies operating within the area of the District as a result of development occurring in the District.

(c) No land within the District is devoted primarily to agricultural, timber or livestock uses or is being used for the commercial production of agricultural, timber or livestock products.

SECTION 5. (a) The Services to be financed by the District are set forth in Exhibit B attached hereto and by this reference incorporated herein. The proposed Services are governmental services which the City is authorized by law to provide since they are in addition to those provided in the territory of the District before the District was created.

(b) The Services are necessary to meet the increased demands placed upon the City and other local agencies operating within the area of the District as a result of development occurring in the District.

SECTION 6. The Report related to the Facilities and Services shall be a part of the record in these proceedings. For purposes hereof, the Report shall refer to the Report as modified, amended, revised or corrected pursuant to and in accordance with any resolution or order heretofore adopted or made by this Council.

(a) As stated in Resolution No. 2007-270, except where funds are otherwise available, it is the intention of this Council, subject to the approval of the qualified electors of the District, to levy special taxes sufficient to pay for the Facilities to be financed by the District, the Services to be financed by the District, and to pay incidental expenses related thereto, secured by recordation of a continuing lien against all nonexempt real property in the District.

(b) The rate, method of apportionment, and manner of collection of the special taxes, in sufficient detail to allow each landowner or resident within the District to estimate the maximum amount that he or she will have to pay, is described in Exhibit A attached hereto and by this reference incorporated herein.

(c) There is no ad valorem property tax currently being levied on property within the District for the exclusive purpose of making lease payments or paying principal or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which are the same the Facilities to be financed by the District.

(d) Any reimbursement made to the District pursuant to Section 53313.5(e) of the California Government Code shall be utilized to reduce or minimize the special taxes levied within the District or to finance additional Facilities within the District.

(e) The special taxes as apportioned to each parcel pursuant to Exhibit A is based on the cost of making the Facilities and Services available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

(f) Pursuant to Section 53314.9 of the Act, this Council may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work-in kind for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the District.

SECTION 7. The description of the proposed voting procedure, as set forth in Resolution No. 2007-270, is incorporated herein by this reference, and shall be the voting procedure to be used in these proceedings.

SECTION 8. The District Administrator is hereby designated as the office, department or bureau which will be responsible for annually preparing the current roll of special tax levy obligations by assessor's parcel number on nonexempt property within the District and which will be responsible for estimating future special tax levies. The name, address, and

telephone number of the office of the District Administrator, and the person responsible for administering the District, is as follows:

District Administrator
City of Modesto
Tenth Street Place
P.O. Box 642
Modesto, California 95353
(209) 577-5211

Such officer is hereby directed to establish procedures to promptly respond to inquiries concerning current and future estimated tax liability pursuant to Section 53340.2 of the Act.

SECTION 9. Upon a determination by this Council, after the canvass of the returns of the election contemplated in Sections 13 and 14 hereof, that at least two-thirds (2/3) of the votes cast upon the question of levying the special taxes were in favor thereof, the City Clerk shall record the notice of special tax lien provided for in Section 3114.5 of the California Streets and Highways Code. Upon recordation of the notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special taxes shall attach to all nonexempt real property in the District, and this lien shall continue in force and effect until collection of the special taxes by this Council ceases, or, in the case of the Annual Facilities Special Tax Component of the special taxes (as defined in Exhibit A), the obligation to pay that component of the special taxes is prepaid and permanently satisfied and the lien thereof cancelled in accordance with the Act.

SECTION 10. All prior proceedings taken with respect to the establishment of the District were valid and in conformity with the requirements of the Act.

SECTION 11. In accordance with Section 53325.7 of the Act, the annual appropriations limit of the District, as defined by subdivision (h) of Section 8 of Article XIIIB of

the California Constitution, is hereby preliminarily established at $800,000, and this annual appropriations limit shall be submitted to the voters of the District as hereafter provided. The proposition establishing the appropriations limit shall become effective if approved by the qualified electors voting thereon and shall thereafter be adjusted in accordance with the applicable provisions of Section 53325.7 of the Act.

SECTION 12. (a) This Council hereby calls a special election and submits the question of levying the special taxes, and the establishment of the annual appropriations limit for the District in connection therewith, to the qualified electors within the District, in accordance with and subject to the Act, the terms of which shall, unless waived as herein provided, be applicable to such election.

(b) Fewer than twelve (12) persons have been registered to vote within the territory of the District for each of the ninety (90) days preceding the close of the hearing referenced herein. Accordingly, for the purposes of these proceedings, the qualified electors shall be the landowners within the District. The vote shall be by such landowners, or their authorized representatives, each having one vote for each acre or portion thereof that such landowner owns in the District as of the close of the hearing; and the ballots for the special election shall be distributed by mail with return postage prepaid or by personal service to each such landowner, all as provided in Section 53326 of the Act.

(c) The Council hereby designates the City Clerk, and the City Clerk hereby agrees to serve, as the election official to conduct the election. The shortening of the election as herein provided has been concurred in by the City Clerk.

(d) If the City Clerk receives appropriate waivers of time limits and other requirements pertaining to the conduct of the election by all of the owners of land included in the

District (collectively, the "Landowners") on or before the 12th day of June 2007, the election shall be held on the 12th day of June, 2007. Otherwise, the election shall be held on the first Tuesday after that date which is 90 days after the date this Resolution is adopted.

(e) Unless waived by the Landowners, there shall be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in Section 53327 of the Act. The election shall be conducted by the City Clerk in the manner required by this Resolution, the Act and applicable laws.

(f) Unless waived by the Landowners, the City Clerk shall publish this Resolution as notice of the special election.

SECTION 13. If two-thirds (2/3) of the votes cast upon the question of levying the special tax are cast in favor of levying the special taxes, as determined by this Council after the canvass of the returns of the consolidated election, this Council may levy the special taxes within the District in the amount and for the purposes specified in this Resolution. The special taxes may be levied only at the rate and may be apportioned only in the manner specified in this Resolution, subject to the Act, except that the special taxes may be levied at a lower rate.

SECTION 14. The City Clerk, as the designated election official, shall, within three business days after the adoption of this Resolution, obtain a certified copy thereof. The City Clerk has previously been provided with a map of the boundaries of the District, a sufficient description from which to determine the boundaries of the District, and the assessor's parcel numbers for the land within the District.

SECTION 15. The Council hereby determines that the formation of the proposed District is the creation of a government funding mechanism which is not a project under the provisions of C.E.Q.A. pursuant to Section 15378(b)(4) of the C.E.Q.A. guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Main document changes and comments

Page 1: Deleted dsheatsley 6/1/2007 7:40:00 AM

APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2007-1 (North Beyer #2) [herein "CFD No. 2007-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-1, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

"Annual Maintenance Special Tax Requirement" means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years

or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2007-1.

"CFD Formation" means the date on which the Resolution of Formation to form CFD No. 2007-1 was adopted by the City Council.

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-1.

"County" means the County of Stanislaus.

"Developed Property" means, in any Fiscal Year, the following:

- ***for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007,***

- for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007, and

- for Other Property, all Parcels for which a building permit for construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term "Final Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Maximum Annual Maintenance Special Tax" means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D.

"**Maximum One-Time Facilities Special Tax**" means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

> "**Maximum Special Taxes**" means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

"**Multi-Family Property**" means all Parcels in CFD No. 2007-1 for which building permits have been issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

"**Net Taxable Acreage**" or "**Net Taxable Acre**" means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

> "**One-Time Facilities Special Tax**" means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.
>
> "**Original Parcel**" means an Assessor's Parcel (or a parcel within a recorded Subdivision Map that has not yet been assigned an Assessor's Parcel number) that is in CFD No. 2007-1 at the time of CFD Formation or added to the CFD upon annexation. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.
>
> "**Other Property**" means, in any Fiscal Year, all Parcels of Taxable Property within the CFD for which building permits have been issued for construction of a non-residential structure.

"**Proportionately**" means, for Developed Property, that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Developed Property, respectively. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Maintenance Facilities Special Tax to the Maximum Annual Maintenance Special Tax is equal for all Assessor's Parcels of Undeveloped Property, respectively.

"Public Property" means any property within the boundaries of CFD No. 2007-1 that is owned by the federal government, State of California, County, City, or other public agency.

"Single Family Detached Lot" means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

"Single Family Detached Property" means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a residential unit that does not share a common wall with another Unit.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

"Subdivision Map" means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2007-1 which are not exempt from the Special Tax pursuant to law or Section G below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-1 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2007-1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor's Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-1. The Administrator shall also determine (i) whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a Subdivision Map for a portion of property in CFD No. 2007-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Subdivision Map was recorded, the Assessor does not yet recognize the new Parcels created by the Subdivision Map, and (iii) one or more of the newly-created Parcels

meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Subdivision Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Subdivision Map.

C. MAXIMUM SPECIAL TAXES

1. Original Parcels

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

TABLE 1
Maximum Special Taxes

Fiscal Year 2007-08

Fiscal Year 2007-08 Assessor's Parcel Number or Subdivision Map Parcel Number	*Fiscal Year 2007-08 Maximum One-Time Facilities Special Tax**	*Fiscal Year 2007-08 Maximum Annual Maintenance Special Tax**
082-005-031	$211,827	$35,070
Parcel 2 of Parcel Map 55-PM-12	$114,030	$18,879

**** Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.***

2. Successor Parcels

Upon recordation of a Subdivision Map that subdivides an Original Parcel, the Administrator shall apply the appropriate subsection below to determine the Maximum Special Taxes for each Successor Parcel:

All Successor Parcels are Single Family Detached Lots

If all Parcels created by a recorded Subdivision Map are Single Family Detached Lots, the Administrator shall divide the Maximum Special Taxes assigned to the Original Parcel that was subdivided by the number of Single Family Detached Lots created within the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

No Successor Parcels are Single Family Detached Lots

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

Step 1: **Determine the total combined Net Taxable Acreage within all Successor Parcels created from subdivision or reconfiguration of the Original Parcel.**

Step 2: **Divide the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the Net Taxable Acreage determined in Step 1 to determine a Maximum One-Time Facilities Special Tax and a Maximum Annual Maintenance Special Tax per Net Taxable Acre.**

Step 3: **Multiply the Maximum Special Taxes per Net Taxable Acre determined in Step 2 by the Net Taxable Acreage of each Successor Parcel of Taxable Property to determine the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax for each Parcel.**

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

Some, But Not All, Successor Parcels are Single Family Detached Lots

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to determine the Maximum Special Taxes for each Successor Parcel:

Step 1: **Separately identify: (i) the total Net Taxable Acreage created within the Subdivision Map, and (ii) the combined Net Taxable Acreage of all Single Family Detached Lots created within the Subdivision Map.**

Step 2: **Divide the Maximum One-Time Facilities Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum One-Time Facilities Special Tax per Net Taxable Acre.**

Step 3: **Divide the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum Annual Maintenance Special Tax per Net Taxable Acre.**

Step 4: **Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum One-Time Facilities Special Tax for each Single Family Detached Lot.**

Step 5: **Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum Annual Maintenance Special Tax for each Single Family Detached Lot.**

Step 6: **Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum One-Time Facilities Special Tax for each Parcel.**

Step 7: **Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum Annual Maintenance Special Tax for each Parcel.**

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

One-Time Facilities Special Tax

Beginning in January 2008 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted by the

greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

Annual Maintenance Special Tax

Beginning in January 2008 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2007-1 and shall be collected as set forth in Section F below.

Annual Maintenance Special Tax

Each Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for the Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: **The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year.**

Step 2: **If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year.**

Step 3: **If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property,**

up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2007-1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2007-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Maintenance Special Taxes through foreclosure or other available methods. The Annual Maintenance Special Tax shall be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services and all Administrative Expenses have been reimbursed.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property except Taxable Public Property, as defined herein.

H. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.

I. ENFORCEMENT

All delinquent One-Time Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1.5 % as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be place on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by

an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

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APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2007-1 (North Beyer #2) [herein "CFD No. 2007-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-1, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

"Annual Maintenance Special Tax Requirement" means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any

delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2007-1.

"CFD Formation" means the date on which the Resolution of Formation to form CFD No. 2007-1 was adopted by the City Council.

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-1.

"County" means the County of Stanislaus.

"Developed Property" means, in any Fiscal Year, the following:

- ***for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007,***

- for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007, and

- for Other Property, all Parcels for which a building permit for construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term "Final Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Maximum Annual Maintenance Special Tax" means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D.

"**Maximum One-Time Facilities Special Tax**" means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

> "**Maximum Special Taxes**" means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

"**Multi-Family Property**" means all Parcels in CFD No. 2007-1 for which building permits have been issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

"**Net Taxable Acreage**" or "**Net Taxable Acre**" means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

> "**One-Time Facilities Special Tax**" means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.
>
> "**Original Parcel**" means an Assessor's Parcel (or a parcel within a recorded Subdivision Map that has not yet been assigned an Assessor's Parcel number) that is in CFD No. 2007-1 at the time of CFD Formation or added to the CFD upon annexation. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.
>
> "**Other Property**" means, in any Fiscal Year, all Parcels of Taxable Property within the CFD for which building permits have been issued for construction of a non-residential structure.

"**Proportionately**" means, for Developed Property, that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Developed Property, respectively. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Maintenance Facilities Special Tax to the Maximum Annual Maintenance Special Tax is equal for all Assessor's Parcels of Undeveloped Property, respectively.

"Public Property" means any property within the boundaries of CFD No. 2007-1 that is owned by the federal government, State of California, County, City, or other public agency.

"Single Family Detached Lot" means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

"Single Family Detached Property" means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a residential unit that does not share a common wall with another Unit.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

"Subdivision Map" means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2007-1 which are not exempt from the Special Tax pursuant to law or Section G below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-1 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2007-1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor's Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-1. The Administrator shall also determine (i) whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a Subdivision Map for a portion of property in CFD No. 2007-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Subdivision Map was recorded, the Assessor does not yet recognize the new Parcels created by the Subdivision Map, and (iii) one or more of the newly-created Parcels

meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Subdivision Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Subdivision Map.

C. MAXIMUM SPECIAL TAXES

1. Original Parcels

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

TABLE 1
Maximum Special Taxes

Fiscal Year 2007-08

Fiscal Year 2007-08 Assessor's Parcel Number or Subdivision Map Parcel Number	*Fiscal Year 2007-08 Maximum One-Time Facilities Special Tax**	*Fiscal Year 2007-08 Maximum Annual Maintenance Special Tax**
082-005-031	$211,827	$35,070
Parcel 2 of Parcel Map 55-PM-12	$114,030	$18,879

**** Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.***

2. Successor Parcels

Upon recordation of a Subdivision Map that subdivides an Original Parcel, the Administrator shall apply the appropriate subsection below to determine the Maximum Special Taxes for each Successor Parcel:

All Successor Parcels are Single Family Detached Lots

If all Parcels created by a recorded Subdivision Map are Single Family Detached Lots, the Administrator shall divide the Maximum Special Taxes assigned to the Original Parcel that was subdivided by the number of Single Family Detached Lots created within the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

No Successor Parcels are Single Family Detached Lots

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

Step 1: **Determine the total combined Net Taxable Acreage within all Successor Parcels created from subdivision or reconfiguration of the Original Parcel.**

Step 2: **Divide the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the Net Taxable Acreage determined in Step 1 to determine a Maximum One-Time Facilities Special Tax and a Maximum Annual Maintenance Special Tax per Net Taxable Acre.**

Step 3: **Multiply the Maximum Special Taxes per Net Taxable Acre determined in Step 2 by the Net Taxable Acreage of each Successor Parcel of Taxable Property to determine the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax for each Parcel.**

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

Some, But Not All, Successor Parcels are Single Family Detached Lots

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to determine the Maximum Special Taxes for each Successor Parcel:

Step 1: **Separately identify: (i) the total Net Taxable Acreage created within the Subdivision Map, and (ii) the combined Net Taxable Acreage of all Single Family Detached Lots created within the Subdivision Map.**

Step 2: **Divide the Maximum One-Time Facilities Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum One-Time Facilities Special Tax per Net Taxable Acre.**

Step 3: **Divide the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum Annual Maintenance Special Tax per Net Taxable Acre.**

Step 4: **Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum One-Time Facilities Special Tax for each Single Family Detached Lot.**

Step 5: **Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum Annual Maintenance Special Tax for each Single Family Detached Lot.**

Step 6: **Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum One-Time Facilities Special Tax for each Parcel.**

Step 7: **Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum Annual Maintenance Special Tax for each Parcel.**

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

One-Time Facilities Special Tax

Beginning in January 2008 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted by the

greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

Annual Maintenance Special Tax

Beginning in January 2008 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2007-1 and shall be collected as set forth in Section F below.

Annual Maintenance Special Tax

Each Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for the Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: **The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year.**

Step 2: **If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year.**

Step 3: **If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property,**

up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2007-1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2007-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Maintenance Special Taxes through foreclosure or other available methods. The Annual Maintenance Special Tax shall be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services and all Administrative Expenses have been reimbursed.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property except Taxable Public Property, as defined herein.

H. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.

I. ENFORCEMENT

All delinquent One-Time Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1.5 % as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be place on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by

an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

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in order to make certain administrative and clarifying changes, such changes being included in the Report and in Exhibit A hereto. The revisions

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; and

WHEREAS, staff has recommended that the maximum special taxes set forth in the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-270, be reduced to reflect (1) the removal of landscaping on Oakdale Road because it is a tentative map condition and will be installed by the developer and (2) the removal of maintenance expenses attributed to another parcel that will annex to CFD 2007-1 in the future; and

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For purposes hereof, expenses shall include the payment in full of all amounts necessary to eliminate any fixed special assessment liens or to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee charge, or assessment levied within the area of the District or to pay debt service on that indebtedness.

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Landowners may prepay the "Annual Facilities Special Tax" component of the special taxes (as defined in Exhibit A) pursuant to the procedures set forth in Exhibit A.

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This Council hereby further directs that the election at which the question of levying the special taxes and the establishment of an appropriations limit in connection therewith is submitted to the qualified electors within the District be consolidated with the election at which the question of incurring a bonded indebtedness in an aggregate principal amount not to exceed $75,000,000 for the District, as set forth in Resolution No. 2004-128, is submitted to the qualified electors with the District, and the question of levying the special taxes shall be combined in one ballot proposition with the question of incurring such bonded indebtedness and the question of establishing an appropriations limit for the District, all as provided by the Act; and this Council further directs that the resolution adopted by this Council determining the necessity to incur such bonded indebtedness shall constitute the notice of the consolidated election on the combined propositions of authorizing the levy of the special tax, establishing an appropriations limit, and incurring such bonded indebtedness. However, the giving of such notice is waived if the City Clerk receives unanimous consent to such waiver from the Landowners.

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SUSANA ALCALA WOOD

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APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2007-1 (North Beyer #2) [herein "CFD No. 2007-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-1, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

"Annual Maintenance Special Tax Requirement" means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2007-1.

"CFD Formation" means the date on which the Resolution of Formation to form CFD No. 2007-1 was adopted by the City Council.

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-1.

"County" means the County of Stanislaus.

"Developed Property" means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007,

- for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007, and

- for Other Property, all Parcels for which a building permit for construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term "Final Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"**Maximum Annual Maintenance Special Tax"** means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D.

"**Maximum One-Time Facilities Special Tax"** means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Special Taxes" means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

"Multi-Family Property" means all Parcels in CFD No. 2007-1 for which building permits have been issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

"Net Taxable Acreage" or **"Net Taxable Acre"** means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"One-Time Facilities Special Tax" means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

"Original Parcel" means an Assessor's Parcel (or a parcel within a recorded Subdivision Map that has not yet been assigned an Assessor's Parcel number) that is in CFD No. 2007-1 at the time of CFD Formation or added to the CFD upon annexation. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

"Other Property" means, in any Fiscal Year, all Parcels of Taxable Property within the CFD for which building permits have been issued for construction of a non-residential structure.

"Proportionately" means, for Developed Property, that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Developed Property, respectively. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Maintenance Facilities Special Tax to the Maximum Annual Maintenance Special Tax is equal for all Assessor's Parcels of Undeveloped Property, respectively.

"Public Property" means any property within the boundaries of CFD No. 2007-1 that is owned by the federal government, State of California, County, City, or other public agency.

"Single Family Detached Lot" means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

"Single Family Detached Property" means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a residential unit that does not share a common wall with another Unit.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

"Subdivision Map" means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2007-1 which are not exempt from the Special Tax pursuant to law or Section G below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-1 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2007-1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor's Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-1. The Administrator shall also determine (i) whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a Subdivision Map for a portion of property in CFD No. 2007-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Subdivision Map was recorded, the Assessor does not yet recognize the new Parcels created by the Subdivision Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Subdivision Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Subdivision Map.

C. MAXIMUM SPECIAL TAXES

1. Original Parcels

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

TABLE 1
Maximum Special Taxes
Fiscal Year 2007-08

Fiscal Year 2007-08 Assessor's Parcel Number or Subdivision Map Parcel Number	***Fiscal Year 2007-08 Maximum One-Time Facilities Special Tax****	***Fiscal Year 2007-08 Maximum Annual Maintenance Special Tax****
082-005-031	$211,827	$35,070
Parcel 2 of Parcel Map 55-PM-12	$114,030	$18,879

****Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.***

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-357

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CANVASSING THE RESULTS OF THE JUNE 12, 2007, ELECTION HELD WITHIN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-1 (NORTH BEYER PARK #2)

WHEREAS, this Council is conducting proceedings pertaining to the formation of City of Modesto City's Community Facilities District No. 2007-1 (North Beyer Park #2) (the "District"), the establishment of an appropriations limit for the District, and the levy of a special taxes sufficient to pay all costs necessary to finance certain Facilities and Services, as described in the City's Resolution No. 2007-270, adopted on May 8, 2007.

WHEREAS, the owners of all of the property in the District waived those provisions related to the timing and conduct of the election referenced in Sections 13 and 14 of this Council's Resolution No. 2007-270 and Sections 9, 10 and 11 of this Council's Resolution No. 2007-270, each adopted on May 8, 2007, and, as a result, this Council called an election within the District (the "Election") for June 12, 2007, relative to the foregoing; and

WHEREAS, consultant to the City has recommended that the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-270, be revised to include an enforcement provision. This revision does not increase either the maximum special taxes or the probable special taxes to be paid by the owner of any lot or parcel; and

WHEREAS, staff has recommended that the maximum special taxes set forth in the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-270, be reduced to reflect (1) the removal of landscaping on Oakdale Road because it is a tentative map

condition and will be installed by the developer and (2) the removal of maintenance expenses attributed to another parcel that will annex to CFD 2007-1 in the future; and

WHEREAS, on June 12, 2007, the Election was held; and

WHEREAS, the City Clerk has certified that the proposition of levying the special taxes and establishing an appropriations limit for the District was approved by at least two-thirds (2/3) of the votes cast at the Election;

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND, by the City Council of the City of Modesto, that:

1. The Election was duly and validly conducted in conformity with all applicable laws, rules and regulations pertaining thereto. It is hereby determined that the owners of the property in the District is as set forth in the Affidavit of City Clerk as to Distribution of Official Ballots, submitted to this Council and on file with the City Clerk.

2. The ballot proposition presented to the qualified electors of the District at the Election received at least two-thirds (2/3) of the votes cast at the Election. A copy of the City Clerk's certificate of election results is attached hereto as Exhibit A.

3. The City Clerk is directed to enter this resolution on the minutes of this City Council, which shall constitute the official declaration of the result of such election.

4. The City Clerk is further authorized and directed to record a notice of special tax lien with the County Recorder of the County of Stanislaus, within 15 days from the date hereof, in accordance with the provisions of Section 3114.5 of the California Streets and Highways Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

CERTIFICATE OF CITY CLERK

I, JEAN MORRIS, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2007-356, the Resolution of Formation, adopted on June 12, 2007 by the City Council of the City of Modesto, I did conduct a Special Tax for City of Modesto Community Facilities DistrictNo. 2007-1 (North Beyer Park #2) on June 12, 2007 , and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

I further certify that the following shows the full text of the measure submitted to the voters at the election and the full and true totals of all votes cast for and against the measure.

Proposition A. Shall an appropriations limit in the amount of $800,000 per fiscal year be established for City of Modesto Community Facilities District No. 2007-1 (the "District") of the City of Modesto ("the City"), and shall special taxes with the rates, method of apportionment, and manner of collection as provided in Exhibit A to the City's Resolution No. 2007-270 (the "Resolution of Intention") adopted by the City Council of the City of Modesto on May 8, 2007, including any amendments thereto up to, and including the election date, which are incorporated herein by this reference, be levied within the District in order to finance certain public facilities (the "Facilities") as set forth in the Resolution of Intention and services (the "Services") also set forth in the Resolution of Intention, including any incidental expenses related thereto?

TOTAL VOTES CAST: YES ___ NO __

_____
Jean Morris
City Clerk of the City of Modesto
Dated: _____, 2007

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-358

A RESOLUTION DESIGNATING THE PROPERTY AT 216 WEST MORRIS AVENUE AS A MODESTO LANDMARK PRESERVATION SITE (OWNER: LORIE GARCIA)

WHEREAS, Chapter 10 of Title 9 of the Modesto Municipal Code establishes Landmark Preservation Site status as a way to recognize, preserve, enhance and perpetuate significant landmarks in the community, and

WHEREAS, a public hearing was held on March 19, 2007, at the McHenry Museum, 1402 I Street, Modesto, California, at which the Landmark Preservation Commission found and recommended in their Resolution No. 2007-1, that the property at 216 West Morris Avenue is eligible for designation as a Landmark Preservation Site for the following reasons:

(1) The location and setting are compatible with future preservation and use.
(2) The physical condition is such that preservation, maintenance or adaptive use is economically feasible.
(3) The distinguishing characteristics of significance are for the most part original and intact or capable of restoration.
(4) The existing or proposed use is compatible with the preservation and maintenance of the site

and

WHEREAS, the Safety and Communities Committee met on May 7, 2007, and supported the Landmark Preservation Commission's recommendation, and

WHEREAS, after a public hearing held on June 12, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the Council found and determined that the property at 216 West Morris Avenue is eligible for designation as a Landmark Preservation Site for reasons set forth by the Landmark Preservation Commission,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the property located at 216 West Morris Avenue is more particularly described in **Exhibit "A"** attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the property at 216 West Morris Avenue has historical significance for the following reason:

This 1925 Arts and Crafts/California Bungalow-style house was part of the Coldwell subdivision which was formed on August 24, 1903 and owned by Virginia Coldwell. Mr. and Mrs. Coldwell came to Stanislaus County in 1875 and purchased a 400-acre ranch about three miles north of Modesto. The subdivision was not developed until the mid to late 1920's.

The original owners of the house were William J. "Billy" Silva and his wife Evelyn D. Mr. Silva was a prominent businessman and community leader in Modesto, owning the William J. Silva Garage and becoming the Stanislaus County representative of the Studebaker Automobile Company in 1919. He also was very active in the Modesto Lodge 1282, Elks, Past President of the Modesto Rotary Club (1930-31), Chair of the Selective Services Board in Modesto during World War II, a past Grand Knight of the Stanislaus Council, Knights of Columbus, and he belonged to the American Legion. In March 1946, Governor Earl Warren named William J. Silva to the five-member Fish and Game Commission. He was a member of that Board until his death and served as Chairman of the Commission for several terms. During his years as a Fish and Game Commissioner, Mr. Silva dealt with several highly important issues involving California's fish and wildlife. Mr. Silva was also appointed to the Wildlife Conservation Board.

BE IT FURTHER RESOLVED that the property at 216 West Morris Avenue has architectural significance and is hereby designated a Landmark Preservation Site for the following reason:

Built in 1925, this Arts and Crafts/California Bungalow architectural style house is located in a neighborhood with tree-lined streets and 50-foot wide lots. The house is set back from the street allowing for a modest, cultivated lawn and planting beds. A driveway is located on the east side of the house and a porte-cochere extends from the east façade of the house over the driveway. The plan is rectangular with a low-pitched, cross-gabled roof with multiple roof planes, multiple gables with attic vents, and a wide roof overhang with exposed rafters. Decorative roof beams are placed under the gable ends at the roof-wall junctions and the exposed roof rafters are finished with plain verge boards. An L-shaped porch surrounds both the north, or street-side and part of the east facades. Short columns, resting upon more massive capped piers that begin at ground level, create a series of arched openings that support the porch roof. These frame the porch, creating an arcade effect. The house is set over a partial basement which elevates the living area approximately 20 inches above the ground. The entrance is on the north

façade and is accessed by three concrete steps leading to the porch. The roof is finished with composition shingles and the walls, foundation, chimney, porch piers and columns are finished with stucco. The primary living space exhibits a mixture of large casement, double-hung and fixed windows. The secondary rooms have multiple large double-hung windows. Like all true California Bungalows, the home features an open plan with the ornamental use of wood limited to the moldings, baseboards and hardwood floors.

To the rear of the house and reached by a straight driveway from the street, a frame building, housing a garage/workshop, is set at the southeast corner of the lot. Mature landscaping covers the grounds.

While the Bungalow style has been considered the quintessential American house of the early twentieth century, the California Bungalow is unique to California. The house and garage/workshop are consistent with residential architecture and construction methods used extensively in Modesto and California during the 1900-1930 period.

BE IT FURTHER RESOLVED that pursuant to Section 9-10.104(e)(1) of the Modesto Municipal Code, the City Clerk shall record a copy of this resolution with the County Recorder's Office of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

State of California – The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary# _____
HRI# _____
Trinomial _____
NRHP Status Code 5S1
Other Listings _____
Review Code _____ Reviewer _____ Date _____

Page 1 of 5 ***Resource Name or #:** (Assigned by recorder) *216 West Morris Avenue, Modesto*

P1. Other Identifier: *William J. "Billy" Silva House*

***P2. Location:** ☐ **Not for Publication** ☒ **Unrestricted** ***a. County** *Stanislaus*
and (P2c, P2e, and P2b or P2d. Attach a Location Map as necessary.)

***b. USGS 7.5' Quad** *Riverbank* **Date** *1987 photo revised* **T** *3S* ; **R** *9E* ; _ ¼ **of** *NE* ¼ **of Sec** *29* ; *M.D.* **B.M.**

c. Address *216 West Morris Avenue* City *Modesto* Zip *95354*

d. UTM: (Give more than one for large and/or linear resources) Zone _, ____ mE/ _____ mN

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate)
Stanislaus County Assessor's Parcel No. 110-003-049-000
South side of Morris Avenue between Magnolia and McHenry Avenues

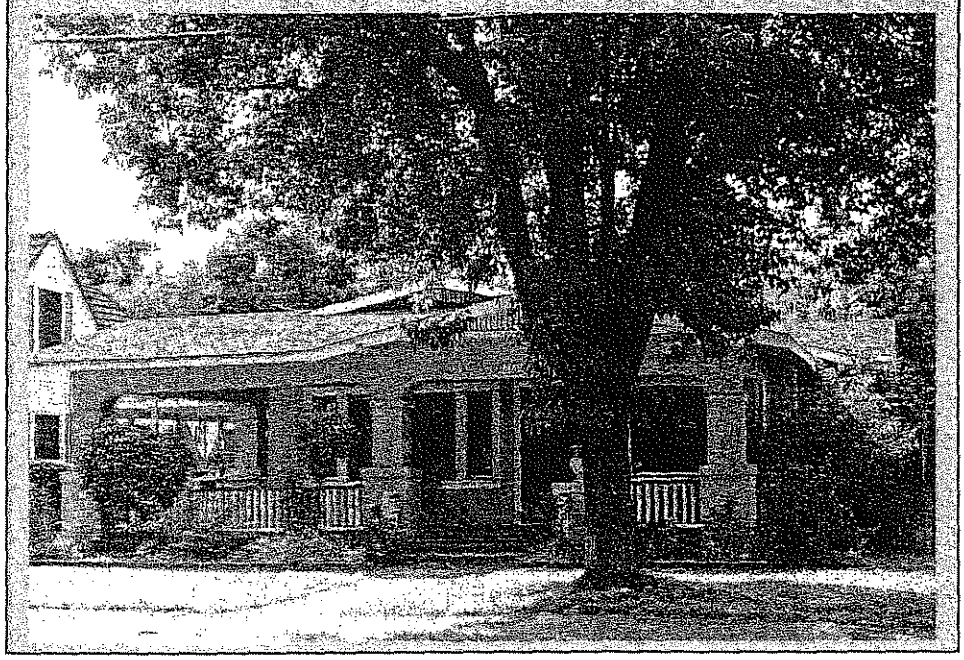
***P3a. Description:** (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

216 West Morris Avenue is located in the urban setting of a block of houses with tree-lined streets that was developed in the 1920s-1930s. The homes have similar setbacks from the street with urban sized front yards and 50-foot wide lots. Like the surrounding blocks, the streetscape on this block is a pleasant one, which evokes the sense of an early twentieth century neighborhood. The primary building on the site is a 2, 048 sq. ft., one-story house, constructed in 1925 and designed in the California Bungalow architectural style. The house fronts north onto West Morris Avenue and is set back from the street allowing for a modest, cultivated lawn and planting beds. A large street tree dominates the front landscaping. A driveway is located on the east side of the house, and a porte-cochere extends from the east side of the house over the driveway. The plan is rectangular with a low-pitched, cross-gabled roof with multiple roof planes, multiple gables with attic vents, and a wide roof overhang with exposed rafters. Decorative roof beams are placed under the gable ends at the roof-wall junctions and the exposed roof rafters are finished with plain verge boards. A concrete L-shaped porch surrounds both

***P3b. Resource Attributes:** (List attributes and codes) *_HP2 Single - Family Property*

***P4. Resources Present:** ☒ Building ☐ Structure ☐ Object ☐ Site ☐ District ☐ Element of District ☐ Other (Isolates, etc.)

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



***P5b. Description of Photo: (view, date, accession #)**
Front façade (view toward south). Photo No: 0086, 9/2006.

***P6. Date Constructed/Age and Sources:**
1925. Assessor's records, deeds
☒ Historic ☐ Prehistoric ☐ Both
Stanislaus County Assessor's Records; Deeds and Maps, Polk City Directories

***P7. Owner and Address:**
Lorie Garcia
216 West Morris Avenue
Modesto, CA 95354

***P8. Recorded by: (Name, affiliation, and address)**
Lorie Garcia
Beyond Buildings
P.O. Box 121
Santa Clara, CA 95052

***P9. Date Recorded:** *February 7, 2007*

***P10. Survey Type:** (Describe) *Intensive*

***P11. Report Citation:** (Cite survey report and other sources, or enter "none.") *None*

Attachments: ☐NONE ☒ Location Map ☒ Continuation Sheet ☒ Building, Structure, and Object Record ☐Archaeological Record ☐District Record ☐Linear Feature Record ☐Milling Station Record ☐Rock Art Record ☐Artifact Record ☐Photograph Record ☐ Other (List):

(Continued from page 1, Form 523A, P3a. Description)

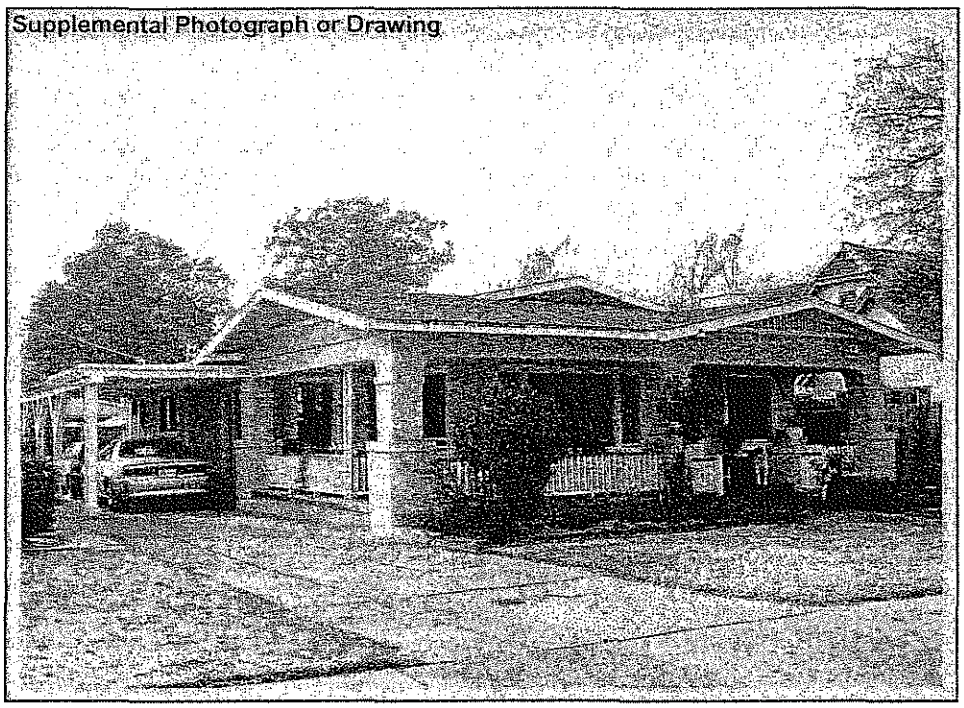
the north, or street-side, façade and part of the east side elevation. Short columns, resting upon more massive capped piers that begin at ground level, create a series of arched openings that support the porch roof. These frame the porch, creating an arcade effect. A low wood railing, which appears to have been added later, connects the piers enclosing portions of the porch.

The house is set over a partial basement, which elevates the living area approximately 20 inches above the ground. The main entrance is on the north façade and is accessed by three concrete steps leading to the porch. A front-facing end gable projects from the western half of the porch roof delineating the main entry into the house. A secondary entry is located on the east side, opening into the dining room from the porte-cochere. The roof is finished with composition shingles, and the walls, foundation, chimney, porch piers and columns are finished with stucco. Fenestration is typical of the California Bungalow architectural style. The primary living space exhibits a mixture of large casement, double-hung, and fixed windows. The secondary rooms have multiple large double-hung windows. The casement windows have a glazing pattern of 9 panes divided by muntins into a specific pattern. The glazing pattern of the double-hung windows in the primary rooms is one of 9 panes divided by muntins on top and a single pane on the bottom. All other double-hung windows are one-over-one. Fixed windows, comprised of eight lights, are located on either side of the dining room door that provides access to the porte-cochere. The north wall of the living room features a casement window with 2 openings on one side of the entry door and a large fixed pane, flanked by single six-paned casement windows, on the other side. The west wall of the living room features 2 small double-hung windows on either side of the fireplace chimney. These windows exhibit a pattern of 6 panes divided by muntins over a single pane. The living room's east wall has two casement windows each with 2 openings. All windows have a projecting sill and are surrounded with decorative frames. The four exterior doors differ from each other. The front, or main door, is comprised of 9 panes divided by muntins in a pattern matching the casement windows. The secondary entry door, east side, is a wooden door with 9 panes equally sized and separated by muntins placed in the top half of the door. The rear door, which opens onto the back porch, is wooden with a single pane in the top half. A door that opens into the back yard from the rearmost room is solid wood.

The interior of the house is unmodified and reflects the Arts and Crafts/Bungalow style in the woodwork and built in cabinetry. However, as the interior of the California Bungalow is generally plainer, the ornamental use of wood in this house is limited to the moldings, baseboards and hardwood floors.

To the rear of the house and reached by a straight driveway from the street, a frame building, housing a garage and workshop, is set at the southeast corner of the lot. Mature landscaping covers the grounds. The property is in good condition and has had very little alteration since its construction.

Supplemental Photograph or Drawing



Description of Photo: (view, date, accession #)
Front façade and east side elevation (view toward southwest) showing porte-cochere and side view of front porch. Photo No. 100-2402, 1/2007

State of California – The Resources Agency Primary #
DEPARTMENT OF PARKS AND RECREATION HRI#
BUILDING, STRUCTURE, AND OBJECT RECORD

*NRHP Status Code *5S1*

 *Resource Name or # (Assigned by recorder) 216 West Morris Avenue, Modesto

B1. Historic Name: *William J. "Billy" Silva House*
B2. Common Name: *None*
B3. Original Use: *single-family residential* **B4. Present Use:** *single family residential*
***B5. Architectural Style:** *California Bungalow*
***B6. Construction History:** (Construction date, alterations, and date of alterations)
The residence was constructed circa 1925. The construction date of the accessory building containing a garage, workshop and a room is unknown. However, it most likely dates from the same period. There have been no alterations to the residence.

***B7. Moved?** [X] No ☐Yes ☐Unknown **Date:** _____ **Original Location:**
***B8. Related Features:**

Accessory building divided into garage, workshop and small room located to rear of the house.

B9a. Architect: *not known* **b. Builder:** *not known*
***B10. Significance: Theme** *Residential Architecture* **Area** *Modesto*
Period of Significance *1925-1956* **Property Type** *House* **Applicable Criteria** *NA*
(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)

Although the Coldwell subdivision was formed by Virginia Coldwell in 1903, it was not developed until the mid to late 1920s. In 1922, most of the homes on the north side of West Morris between Magnolia and McHenry were constructed. Subsequently, on June 30, 1925, George W. O'Connor recorded the subdivision of his land, Lot 1, Block 554, which he divided into 13 lots (lots numbered 4 thru 16). The lots fronting on McHenry Avenue ranged from 50' to 52.5' wide and were 118' deep. Those fronting on Morris Avenue were 50' wide and 152.5' deep (except for lot 10 at 57' wide and lot 16, which was 10' wide). Two days later, on July 2nd William J. Silva purchased Lot 13. Considered a pioneer in the automotive industry of Modesto, William J. Silva came to Modesto in 1912. The son of a La Grange district rancher who helped settle the San Joaquin Valley, W. J. Silva was born in 1895 and raised on his father's cattle and grain ranch. When he was 17, having decided he didn't want to follow in his father's footsteps, he left his father's ranch in La Grange with $40.00 in his pocket and moved to Modesto. Interested in mechanical things and the young automobile industry, Mr. Silva got a job as night service man in the Myers and Zacharias garage. From service he was promoted into the sales department, and by 1914 had worked into the management department of Charles Kaar's Studebaker dealership.
World War I interrupted his advancement in Modesto' automobile business and he enlisted in the United States Army. A strong voice for progress and the opportunities he saw in Modesto and Stanislaus County, after the armistice William J. Silva returned to Modesto and formed a partnership with Claude Shackleford to construct a building at 1116-22 H Street. This was a main thoroughfare in the heart of

B11. Additional Resource Attributes: (List attributes and codes) *HP2--Single Family Property*
***B12. References:**

Directories of Modesto/Stanislaus /county, 1910-2005; Archives of Stanislaus County Library; Modesto Bee, 12/17 1954, Modesto Tribune, 1962; Official Records; California Blue Books 1946-54; Carty Edwin L., Hinting, Politics, and the fish and Game Commission, 1975; Bare, Colleen, Modesto Then and Now, 1999; Bartlett, Leonard, 50 Years of service1920-1970, 1970; Maino, Jeannette, 100 years Modesto, California 1870-1970, 1970; Osborne, Billy, Modesto an Informal History,2003; Tatam, Robert, Old Times in Stanislaus County, 1984; Stanislaus Stepping Stones, Fall1991& Nov/Dec 2002

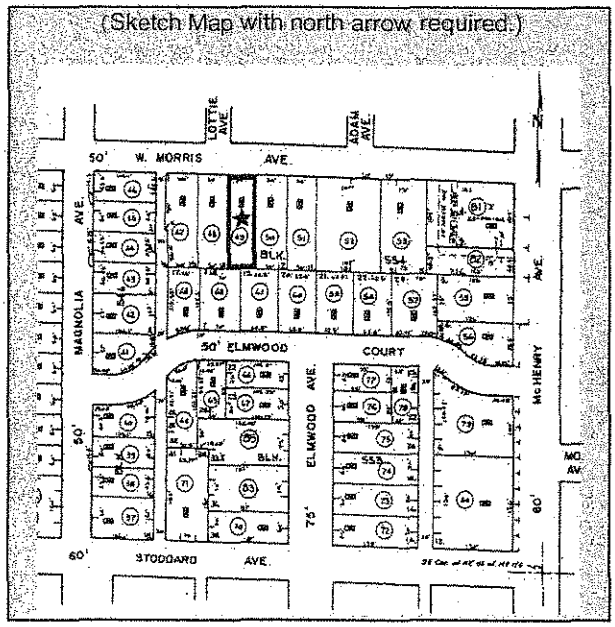
B13. Remarks: *The house is being considered for Landmark status In the City of Modesto*

***B14. Evaluator:** *Lorie Garcia*

***Date of Evaluation:** *February 7, 2007*

(This space reserved for official comments.)

(Sketch Map with north arrow required.)



*Required information

(Continued from page 3, Form 523B, B10.Significance)

Modesto's business district. In his newly constructed building, W. J. Silva located his business, the William J. Silva Garage "Studebaker Dealers, Garage, Day and Night Services." In 1919, Mr. Silva became the Stanislaus County representative of the Studebaker Automobile Company and by 1922 he had sold over 350 models of this popular vehicle. His garage had a capacity of 140 cars and was considered one of the largest, if not the largest, garages in the San Joaquin valley. An article written about him in March of that year, stated that he "is a real asset" and that "Stanislaus County and Modesto are truly proud to number him among their substantial citizens."

On July 2, 1925, William J. Silva purchased a residential lot in the subdivision that had recently been created by George W. O'Connor (deed). By the beginning of 1926, he had he moved with his wife, Evelyn D., and family from their previous residence at 1530 Morris, into their newly constructed house on the property located at 1606 Morris (today's 216 West Morris). The same year, Mr. Silva bought out his partner's share of the business.

As his business grew over the following decades, Mr. Silva continued to handle Studebaker cars for, as he stated in a 1938 interview, he felt "that his company being one of the oldest builders of automobiles, always has had a fine reputation for producing dependable vehicles." By World War II, he was the distributor for Studebaker cars in four central valley counties, not only handling Studebaker cars, but also Studebaker and White trucks. At that time, with the exception of a few, he was considered to have had the longest service record with one company than any other automobile distributor in California. When the United States joined in the war, W. J. Silva took on another responsibility. For five years he served as chair of the selective services board in Modesto.

William J. Silva - "Billy" to most who were acquainted with him - along being an active member of Modesto's merchant and business community was also known for his participation in civic organizations. He held membership in the Modesto Lodge 1282, Elks, was a past president of the Modesto Rotary Club (1930-31), a past grand knight of Stanislaus Council, Knights of Columbus and belonged to the American Legion.

Along with his business and civic involvement, W. J. Silva was noted for his love of outdoor sports, particularly hunting, fishing, golf and trap shooting. He belonged to various sporting groups, including the Old Fishermen's Club and a duck club called the Modesto Properties Company. As a member of the Modesto Trap Club and an expert trap shooter, William J. Silva participated in many Pacific coast competitions. Being an avid deer and bird hunter, he made several out-of-state hunting trips all over the United States, Canada and Alaska for big game, i.e., mountain lion, mountain goat, big horn sheep, moose and caribou. He also went deep-sea fishing for swordfish off the coast of Mexico. As a result many trophies decorated his office.

In March 1946, Governor Earl Warren named William J. Silva to the 5-member Fish and Game Commission. This Commission administered the State of California Division of Fish and Game, which was charged with the enforcement of the State's fish and game Laws; the establishment of fish hatcheries; importation, propagation, and distribution of birds, mammals, fish, mollusks, and other crustaceans; control of game predators; conduct of scientific research on fish and game problems; and collection of statistics on the take of all these resources. The year previous to W. J. Silva's appointment to the commission, the Legislature, through a constitutional amendment, delegated to the Fish and Game Commission the responsibility for making regulations for sport fishing and hunting.

He was a member of that board until his death and served as president or "chairman" of the commission for several terms. When acting as the commission president, William J. Silva had the additional responsibility of serving on the Wildlife Conservation Board (WCB), which was comprised of three people, the Director of the Department of Fish and Game, the Director of Finance, and the president of the Fish and Game Commission. The WCB administered the capital acquisition and development program for conservation and recreational uses-of fish and wildlife resources, including deciding which lands were suitable for wildlife production and preservation and which were suitable for recreational uses.

During his years as a Fish and Game Commissioner, William J. Silva dealt with several highly important issues involving California's fish and wildlife. Among these were ecological concerns; the Sardine industry crisis and other commercial fishing issues, as an increase in commercial fishing led to the depletion of fish; and improvements for sports fishermen. These improvements included the development of fish hatcheries and fish planting. . Mr. Silva was particularly interested in fish and game planting programs, and in 1948 the Fish and Game Commission implemented the first aerial planting of trout followed by the establishment of the first pheasant cooperative hunting areas in 1949.

William J. Silva died on December 17, 1956, following a long illness. The Modesto Bee carried his obituary on the first page. For six months following his death, his wife, Evelyn, continued to live in their home. However, on June 1, 1957, she also passed away. When her death occurred, the news was also on the first page of the Modesto Bee, noting the fact that she was a native of California who had lived in Modesto nearly all her life and referencing the accomplishments of her husband.

After the death of Evelyn D. Silva, records show that her daughter, Mary Lou Johns, a public school teacher, followed by William Johns, manager of Hills Food Market, and his wife Dorothy, resided at this address through 1961.

Starting in 1962, the property has had nine owner occupants. Harry C. Kurkjian, resided in this house along with his wife Annie in 1962 and 1963. Members of the Kurkjian family are listed at this address until 1980. They include, Mrs. Annie Kurkjian, likely the widow of Harry C., who lived here from 1964-1966, followed by Pearle Kurkjian, a bookkeeper for Cal. Packing (1967-1971) Robert H. Stagg, a salesman for American Lumber Co., and his wife Pearle (Kurkjian), (1972-1977), and Mrs. Pearle Stagg (1978-1979).

By 1981 Sheldon Spencer occupied the house, living here through 1985. After Sheldon Spencer, the owners were Lyle Witt, an employee of Modesto Brake and Filter (1987-2001) and Melissa Maxwell and Brenda Carpenter, a teacher (2002-2005). In spring 2005, Brenda Carpenter and Melissa Maxwell sold the property to the current owner, Lorie Garcia.

(Continued from page 4, Form 523B, B10.Significance)

The 1925 George O'Connor subdivision of residential lots on West Morris Avenue became important to the growth of Modesto for the urban design. As the houses were constructed they came to represent fine residential design and well constructed buildings, important in the city's architectural heritage. This residence was one of the first constructed in the subdivision and its California Bungalow architectural style stands out in this Modesto neighborhood, which was mostly constructed in the Provincial style. It has not undergone physical alteration since it was constructed and does retain the distinctive characteristics that represent a period and method of construction and that make it recognizable as a historic resource. Also it has a direct association with the life of a person important to the history of Modesto and California, as it was the residence of William J. "Billy" Silva from its construction in 1925 until his death in 1956. Research into the past owners and residents concluded that the original owner of the subject property was a solid citizen of Modesto. The original owner, William J. "Billy" Silva, was very active in civic and social organizations and a leading member of the business community during an important period of economic growth and development in Modesto, 1920-1950. Not only was Mr. Silva significant to the history of the City, but also as a member of the California State Fish and Game Commission (1946-1956) he was influential in policy decisions affecting the preservation and development of California's fish and wildlife resources

However, no events are associated with the building which would have made a significant contribution to the broad patterns of history or cultural heritage. And none of the persons associated with it appear to be important at a national level. Therefore the subject building does not appear to be eligible for the National Register based on Criteria A or B. The house itself represents the California Bungalow architectural style, which became extremely popular across the country from 1900-1930 and it retains its architectural integrity. Considering the criteria of the National Register of Historic Places, Criterion "C" is the one that best addresses the subject property although it is not a rare example of that type. In conclusion, while the William J. "Billy" Silva house does not appear to meet the criteria for listing in the National Register of Historic Places as an individual resource it would qualify for inclusion in a small residential district in the immediate neighborhood.

The criteria for listing historical resources in the California Register of Historical Resources are consistent with those for listing resources in the National Register of Historic Places, but have been modified for state use in order to include a range of historical resources that better reflect the history of California.
The significance of a property is found in the association with historic events or people or is due to the physical quality and presence of the building, structure or object. The Bungalow style has been considered the quintessential American house of the early twentieth century, but the California Bungalow is unique to California. Most of the homes in the 200 block of West Morris Avenue were constructed in the Provincial style; however the William J. "Billy" Silva house was built in the California Bungalow architectural style and exhibits the distinctive characteristics of this style. The house and accessory building housing the garage/workshop have not lost architectural integrity and are consistent with residential architecture and construction methods used extensively in Modesto and California during the 1900 – 1930 period. Also as mentioned above, William J. "Billy" Silva was not only a successful businessman but was also very influential in local business issues and promoting Modesto. And, as a member of the State Fish and Game Commission (1946-1956), he was influential in the implementation of policies and programs, which affected the preservation and development of California's fish and wildlife resources. Under criteria 2 and 3, the subject property appears eligible for inclusion on the California Register of Historical Resources at both a local and state level.

The house at 216 West Morris Avenue has not been moved or altered and it retains its architectural integrity from the period of significance. As such, it is an important element in the streetscape and the architectural heritage of Modesto. It appears to be eligible for listing as a City of Modesto Landmark due to the historic associations with William J. "Billy" Silva, and the original building style.

Print

RESCINDED
OCT 25 2016
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2016-432

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-359

A RESOLUTION ESTABLISHING FEES FOR MUNICIPAL OFF-STREET PARKING FACILITIES, PROVIDING FOR CONTROL THEREOF, AND RESCINDING RESOLUTION NO. 2007-086.

WHEREAS, Section 3-2.1601 of the Modesto Municipal Code provides that the City Council may from time to time establish and designate municipal off-street parking facilities in the City by resolution of the Council, and

WHEREAS, Section 3-2.1602 of the Modesto Municipal Code provides that the hours and days upon which the operation of off-street parking facilities shall be effective shall be established from time to time by resolution of the Council, and

WHEREAS, Section 3-2.1603 of the Modesto Municipal Code provides that the rates for use of off-street parking facilities shall be established from time to time by resolution of the Council, and

WHEREAS, on February 6, 2007, the City Council, by Resolution No. 2007-086, established the current fee schedule and hours that fees can be collected at the City's off-street parking facilities, and

WHEREAS, by an agenda report to the City Council from the Parks, Recreation and Neighborhoods Department dated May 24, 2007, City staff recommended standardizing parking rates, resulting in the surface lots having the same per hour charge as the garages, revising the grace period from ten (10) minutes to twenty (20) minutes, and eliminating the gross revenue sharing, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on June 12, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed parking rates,

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

SECTION 1. GARAGE PARKING FACILITIES.

(a) The following municipal garage parking facilities are hereby established:

(1) Eleventh Street Garage (Lot 28) west side of 11th Street between I and J Streets;

(2) Ninth Street Garage (Lot 43) west side of 9th Street between K and L Streets;

(3) Tenth Street Garage (Lot 44) west side of 11th Street between J and K Streets.

(b) Vehicular parking on said parking facilities shall be controlled and regulated as follows:

(1) From 6:00 a.m. to 6:00 p.m., seven days per week, the rate of One and no/100ths dollar ($1.00) per hour or fraction thereof, unless validated in accordance with the provisions of Section 3-2.1604 of the Modesto Municipal Code.

(2) From 6:00 p.m. to 6:00 a.m., seven days per week, the rate of Five and no/100ths dollars ($5.00) per evening, unless validated in accordance with the provisions of Section 3-2.1604 of the Modesto Municipal Code.

(c) The price for validation stamps to be used with the validation system on said garage parking facilities, as provided by Section 3-2.1604 of the Modesto Municipal Code, shall be $107.00 for a book of one hundred (100) stamps.

(d) The Parks, Recreation and Neighborhoods Director may designate spaces in said garage parking facilities for the free parking of bicycles. When appropriate signs are erected, bicycles may be parked in such areas without charge.

(e) Monthly parking passes may be authorized by the Parks, Recreation and Neighborhoods Director at said garage parking facilities when it does not encroach on the needs of commercial parking and/or other parking agreements. The monthly charges for such passes for the three parking garages (Lots 28, 43 and 44) shall be Sixty and no/100ths dollars ($60.00) for 2007; Sixty-two and no/100th dollars ($62.00) for 2008; Sixty-four and no/100th dollars ($64.00) for

2009; Sixty-six and no/100th dollars ($66.00) for 2010; Sixty-eight and no/100th dollars ($68.00) for 2011; Seventy and no/100th dollars ($70.00) for 2012; Seventy-two and no/100th dollars ($72.00) for 2012; Seventy-four and no/100th dollars ($74.00) for 2013, Seventy-six and no/100th dollars ($76.00) for 2014; Seventy-eight and no/100th dollars ($78.00) for 2015; and, Eighty and no/100th dollars ($80.00) for 2015.

(f) From time to time, the promoters of special events have the need to use the entire first floor of the Eleventh Street parking garage for their events. The charges for such "buy-out" rentals shall be Two hundred Twenty-five and no/100th dollars ($225.00), per twenty-four (24) hour period or portion there of.

(g) In order to accommodate patrons who are unable to locate a parking space, a twenty (20) -minute free, grace period shall be allowed.

SECTION 2. SURFACE PARKING LOTS.

(a) For the purposes of this section, municipal off-street parking facilities shall be defined as those that are equipped with automated collection devices and/or are staffed. Parking lots described in Section 3. below shall be excluded.

(b) Vehicular parking on said parking facilities shall be controlled and regulated as follows:

(1) From 6:00 a.m. to 6:00 p.m., seven days per week, the rate of One and no/100ths dollar ($1.00) per hour or fraction thereof, unless validated in accordance with the provisions of Section 3-2.1604 of the Modesto Municipal Code.

(2) From 6:00 p.m. to 6:00 a.m., seven days per week, the rate of Five and no/100ths dollars ($5.00) per evening, unless validated in accordance with the provisions of Section 3-2.1604 of the Modesto Municipal Code.

(c) The price for validation stamps to be used with the validation system on said garage parking facilities, as provided by Section 3-2.1604 of the Modesto Municipal Code, shall be $107.00 for a book of one hundred (100) stamps.

(d) The Parks, Recreation and Neighborhoods Director may designate spaces in said parking facilities for the free parking of bicycles. When appropriate signs are erected, bicycles may be parked in such areas without charge.

(e) Monthly parking passes may be authorized by the Parks, Recreation and Neighborhoods Director or any surface parking lot when it does not encroach on the needs of commercial parking. The monthly charges for such passes shall be Sixty and no/100ths dollars ($60.00) for 2007; Sixty-two and no/100th dollars ($62.00) for 2008; Sixty-four and no/100th dollars ($64.00) for 2009; Sixty-six and no/100th dollars ($66.00) for 2010; Sixty-eight and no/100th dollars ($68.00) for 2011; Seventy and no/100th dollars ($70.00) for 2012; Seventy-two and no/100th dollars ($72.00) for 2012; Seventy-four and no/100th dollars ($74.00) for 2013, Seventy-six and no/100th dollars ($76.00) for 2014; Seventy-eight and no/100th dollars ($78.00) for 2015; and, Eighty and no/100th dollars ($80.00) for 2015.

(f) Recreational Vehicles (RVs) may be allowed to park on surface lots as designated by the Parks, Recreation and Neighborhoods Director. The charges per twenty-four (24) hour period, or portion thereof, shall be Twenty and no/100ths dollars ($20.00).

(g) Buses and commercial trucks may be allowed to park on surface lots as designated by the Parks, Recreation and Neighborhoods Director. The charges per twenty-four (24) hour period, or portion thereof, shall be Thirty and no/100ths dollars ($30.00).

(h) From time to time, the promoters of special events have the need to use an entire surface lot for their event. The charges for such "buy-out" rentals shall be Six Hundred Fifteen and no/100th dollars ($615.00) for the surface lot at 10th and H (123 spaces); Three Hundred Thirty and no/100th dollars ($330.00) for the surface lot at 9th and I (66 spaces); Two Hundred Fifteen and no/100th dollars ($215.00) for the surface lot at 9th and J (43 spaces); Two Hundred Twenty-five and no/100th dollars ($225.00) for the first floor of the Eleventh Street garage (45 Spaces); and Seven Hundred Fifty and no/100th dollars ($750.00) for the Centre Plaza surface lot (150

spaces). In addition, a discount of $1 per space shall be provided at the Centre Plaza lot when the rental of the Centre Plaza lot is in conjunction with an event at the Modesto Centre Plaza. In that case, the rate will be Six Hundred and no/100th dollars ($600.00), with Seventy-five and no/100th dollars ($75.00) of that amount going to the Centre Plaza operating fund.

(i) Additional surface parking facilities and/or hours of operation, including weekends may be authorized by the Parks, Recreation and Neighborhoods Director as appropriate to meet parking needs, comply with existing agreements, or allow for collection of fees for special events.

SECTION 3. FREE PARKING LOTS.

(a) The following municipal off-street parking facilities shall be free parking lots:

(1) Lot 13, north side of H Street between 15th and 16th Streets (Modesto Stanislaus Library);

(2) Lot 15, east side of 11th Street between F and G Streets (north of Fire Station #1); and

(3) Lot 16, east side of 11th Street between F and G Streets (south of Fire Station #1).

SECTION 4. DISABLED PERSONS. Notwithstanding any other provision of this resolution, disabled persons, as defined in Section 22511.5 of the California Vehicle Code, displaying a distinguishing license plate or distinguishing placard issued pursuant to Section 22511.5 of the California Vehicle Code may park free in any of the municipal off-street parking facilities specified in this resolution, except in reserved parking spaces.

SECTION 5. JURY PARKING. Persons ordered to appear for jury duty may park exclusively in the following municipal off-street parking facility in compliance with the fees and regulations specified in this resolution:

(1) Lot 10, exclusive all day, east side of 8th Street between I and K streets.

SECTION 6. The Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

SECTION 7. Effective July 1, 2006, the gross revenue sharing between the Parking Services Division and the Modesto Police Department for evening revenue at the Eleventh Street parking garage is hereby eliminated.

SECTION 8. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after June 13, 2007.

SECTION 9. RESCIND. Resolution No. 2007-086 is hereby rescinded effective at midnight on June 12, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-360

A RESOLUTION SUPPORTING SENATE BILL 286 (LOWENTHAL/DUTTON) WHICH DEFINES AN ALLOCATION SCHEDULE FOR THE $2 BILLION FOR CITIES AND COUNTIES

WHEREAS, In November, 2006, California voters overwhelmingly approved Proposition 1B, a $19.9 billion state bond for transportation improvements, and

WHEREAS, The Assembly and Senate Budget Subcommittees on Transportation made their recommendations for the allocation of the $2 billion included in Proposition 1B for cities and counties (split evenly at $1 billion each), and

WHEREAS, The Senate recommendation provides $400 million, split evenly between cities and counties. This represents just 20 percent of cities' guaranteed allocation, and

WHEREAS, The Assembly recommendation is consistent with the Governor's May Budget Revision, which allocates $600 million, split evenly between cities and counties, and

WHEREAS, The issue now goes to the Budget Conference Committee where the Assembly and Senate proposals will be debated and reconciled, and

WHEREAS, Legislators are urged to support a $1 billion appropriation for cities in FY 2007/08 from the Proposition 1B account for local streets and roads, and

WHEREAS, The League of California Cities is asking for cities to pass a resolution in support of SB286 and full funding of Proposition 1B Local Streets and Roads, as the decisions for funding levels are being determined now, and

WHEREAS, This bill guarantees that every city will receive at least half of their Proposition1B funds to spend in the next two fiscal years (the 2007-08 Proposition 42 "gap" year and 2008-09), and

WHEREAS, Securing this funding is extremely important for cities. Cities will not receive any Proposition 42 (gasoline sales tax) funds for local streets and roads during the FY 2007/08, and

WHEREAS, Cities can use these Proposition 1B funds immediately for improvements to local transportation facilities that will repair and rehabilitate local streets and roads, reduce local traffic congestion, improve traffic flow, or increase traffic safety.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves supporting Senate Bill 286 (Lowenthal/Dutton) which defines an allocation schedule for the $2 billion for cities and counties.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-361

A RESOLUTION ADOPTING RUN-OFF ELECTION PROCEDURES AND DIRECTING THE CITY CLERK TO FOLLOW THE PROCEDURES IN CONDUCTING ANY REQUIRED RUN-OFF ELECTION FOLLOWING THE REGULAR MUNICIPAL ELECTION IN NOVEMBER, 2007, AND DIRECTING THE CITY ATTORNEY TO FILE AN ACTION IN SUPERIOR COURT IN THE EVENT THAT THE DECEMBER, 2007 RUN-OFF ELECTION "FAILS"

WHEREAS, after considering the options of whether the County Clerk-Recorder or the City Clerk should conduct the December 11, 2007 run-off election, the Finance Committee at its May 21, 2007 meeting recommended to the City Council that the City Clerk conduct the run-off; and

WHEREAS, the City Council adopted Resolution No. 2007-317 directing the City Clerk to conduct the December 11, 2007 run-off election, and

WHEREAS, the City Council authorized a contract with Martin & Chapman for election services to assist the City Clerk in conducting the 2007 run-off election; and

WHEREAS, it is prudent and necessary for the City Council to approve run-off election procedures to guide the City Clerk in conducting the December run-off election in the event one is necessary.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the run-off election procedures set forth in the staff report to the City Council dated June 26, 2007, are hereby adopted and the City Clerk is authorized and directed to follow said procedures in conducting the run-off election, and further, the City Attorney is directed to file the litigation described in said staff report in the event the December, 2007, run-off election "fails." (A copy of the staff report is attached as Exhibit "A" and incorporated herein by reference.)

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO COUNCIL AGENDA REPORT	COUNCIL MEETING: Date of Meeting 6/26/07

Date: 6/2/07

TO: Mayor and City Council

FROM: Jean Morris, City Clerk

SUBJECT: December 2007 Run-Off Election

CONTACT: Jean Morris, jmorris@modestogov.com, (209) 577-5396

RECOMMENDED COUNCIL ACTION

1. Resolution approving run-off election procedures and directing the City Clerk to follow the procedures in conducting any required run-off election following the regular municipal election in November 2007, and directing the City Attorney to file an action in Superior Court to do the following in the event that the December 2007, run-off election "fails;" (1) obtain an order prohibiting the City Clerk from canvassing the December 11, 2007 run-off election, (2) declare the December 11, 2007, run-off election nullified, and (3) request the Court to retain jurisdiction until the run-off election results are certified.

2. Resolution calling for a special election to be held on January 29, 2008 for the purpose of holding a run-off election that might otherwise have been held on December 11, 2007 in the event the December 11, 2007, run-off election "fails."

BACKGROUND

The City Council has directed the City Clerk to conduct the December 11, 2007 run-off election.

The County Clerk-Recorder will be conducting the November 6, 2007 Municipal Election and it is anticipated that the office will use the entire 28-day canvassing period allowed under the law for that election. In the event the full 28-day period allowed by law is utilized, there will not be sufficient time to mail the run-off ballots to voters 10 days prior to the run-off date as required by the Elections Code. It is therefore recommended that the City Council approve the following run-off election procedures:

SELECTION OF RUN-OFF CANDIDATES:

- Establish November 16, 2007, at 5:00 p.m. as the date and time when the top two candidates will be chosen for purposes of printing the run-off ballots in those races where it appears that a run-off will be necessary. In those races where any candidate has more than 50% of the votes cast as of that date and time, no run-off ballots will be printed. The determinations provided for in this paragraph will be made based on the vote tabulation printed by the County Elections Office at that date and time.

- Immediately after the above determinations have been made pursuant to these procedures, the City Clerk shall cause the necessary ballots to be printed.

- Prior to November 16, 2007, the City shall have caused the necessary mail ballot envelopes and any other election supplies to have been printed utilizing the services of the election supplier previously chosen by the City Council as set forth in Resolution No. 2007-318.

- In the event the County Clerk-Recorder does not utilize the full 28-day canvassing period and the certified election results show that the incorrect names were chosen pursuant to the procedure set forth above, then the following action shall be taken depending on at what point in the process the canvass is made:

    - If the canvass is made prior to the mailing of the ballots then, provided there is sufficient time in the opinion of the election supplier, the City Clerk shall request an emergency reprint and incur any necessary additional cost and mail out the reprinted ballots prior to the 10-day deadline mandated by state law, or if there is not sufficient time to meet the 10-day deadline, the election shall be deemed to have "failed" and the City Attorney shall proceed with the litigation outlined below.

    - If the canvass of the County Clerk-Recorder shows that the incorrect names were chosen pursuant to the procedure outlined above and the ballots have already been mailed, then the run-off shall be deemed to have "failed," and the City Attorney shall proceed with the litigation outlined below.

LITIGATION:

- In the event said run-off is deemed to have "failed" pursuant to these procedures, then the City Attorney is hereby directed to file an action in Superior Court to do the following:

    - Obtain an order prohibiting the City Clerk from canvassing the December 11, 2007, run-off election.

    - Declare the December 11, 2007, run-off election nullified.

    - Request the Court to retain jurisdiction until the run-off election results are certified

DECISION TREE:

- Pursuant to these procedures there are two (2) possible scenarios which are summarized in the attached "Decision Tree."

- Pursuant to the procedures set forth above, if the City Clerk has printed and mailed ballots with incorrect names chosen, it will be necessary to call a special election for the purpose of holding the run-off. The agreed upon date to hold an election with Martin and Chapman is January 29, 2008. This date will allow adequate time to reprint and mail new ballots. It is recommended that the City Council adopt such a resolution now on condition that it not be effective unless the circumstances described above occur.

In the past, in order to avoid allegations of conflict of interest, it has been recommended that Councilmembers running for re-election abstain from voting on this matter. The precedent for this is the fact that Councilmembers Friedman and Smith abstained during actions taken related to the "failure" of the 2001 run-off election, Mayor Sabatino and Councilmember Conrad abstained from voting on this matter during actions related to the 2003 run-off election, and Councilmembers Jackman, Keating and O'Bryant abstained from voting on this matter during actions related to the 2005 run-off election. However, in this election year if all four incumbents run for re-election and abstain from voting on this issue, there will not be a quorum of the Council. Therefore, it is recommended that all Councilmembers, incluing the Mayor, vote on this item.

FISCAL IMPACT

If a special run-off election is required in January it is estimated that an additional $172,000 will be needed to cover costs.

STEPS FOLLOWING APPROVAL

These procedures will be forwarded to Martin & Chapman and the County Clerk-Recorder.

Prepared and
Submitted By: Jean Morris

Jean Morris, City Clerk, jmorris@modestogov.com; 577-5396

cc: George Britton, City Manager
Susana Alcala-Wood, City Attorney

Attachments: Resolution Adopting Run-Off Procedures
Resolution Calling for a Special Election
Decision Tree

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-362

A RESOLUTION CALLING FOR A SPECIAL ELECTION TO BE HELD ON JANUARY 29, 2007 FOR THE PURPOSE OF HOLDING A RUN-OFF ELECTION THAT WAS PREVIOUSLY SCHEDULED FOR DECEMBER 11, 2007

WHEREAS, in the event the December run-off election "fails," it will be necessary to reschedule the run-off election; and

WHEREAS, the City Council determines that the run-off election should be held on the 5th Tuesday in January 2008.

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

1. That the City Council orders the City Clerk to submit the run-off election previously scheduled for December 11, 2007, to the voters on January 29, 2008.

2. The City Council hereby requests Martin & Chapman to provide election services for the purpose of holding a run-off election that was previously scheduled for December 11, 2007, to elect members of Council for the Mayor, Chairs 1, 3 and 6.

3. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

4. This resolution shall only be effective in the event incorrect names for the run-off ballots were chosen; and, the Superior Court issues an Order prohibiting the City Clerk from canvassing the December 11, 2007, run-off election; and, the Superior Court issues an Order nullifying the December 11, 2007, run-off election.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-363

Print

A RESOLUTION AMENDING THE
FISCAL YEAR 2006-2007ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown on the Budget Request form(s).

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, 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
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-364

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF DIGESTER CLEANING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION (WQC) TO WASTEWATER SOLIDS MANAGEMENT, INC. OF YACHATS, OR, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $29,200

WHEREAS, the Public Works Department, Water Quality Control Division has requested the cleaning of digesters, and

WHEREAS, digesters are utilized to reduce the volume of organic waste that is removed from the waste water in the Primary clarifiers, and

WHEREAS, cleaning of digesters removes solids that will not break down in the digestion process, such as sand and plastic, and

WHEREAS, cleaning of anaerobic digesters is standard operating procedure for all wastewater treatment plants, and

WHEREAS, on May 23, 2006, Council approved Resolution No. 2006-310 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of digester cleaning services, for the Public Works Department, Water Quality Control Division (WQC), and

WHEREAS, on March 20, 2007, the Purchasing Division issued Request for Bid No. 0607-06 for the furnishing of digest cleaning services to eight (8) prospective bidders, none of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on May 1, 2007, RFB's were formally opened in the CITY Clerk's office, and

WHEREAS, of the eight (8) prospective bidders, two (2) companies chose to respond, of which one was a "No Bid", and

WHEREAS, based on receiving a responsive and responsible bid, City staff recommends the award of bid and contract for digester cleaning services to Wastewater Solids Management, Inc. of Yachats, OR, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City, and

WHEREAS, Modesto Municipal Code 8-3.203, generally requires all purchases, which meet or exceed $50,000 for materials, equipment or contractual services to be formally bid, and

WHEREAS, the award of bid and contract for the purchase of digest cleaning services conforms to Modesto Municipal Code, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of digester cleaning services for the Public Works Department, Water Quality Control Division (WQC) to Wastewater Solids Management, Inc. of Yachats, OR, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City, for a total estimated annual cost of $29,200.

BE IT FURTHER RESOLVED that the Purchasing Manager is herby authorized to issued a purchase agreement for the furnishing of digester cleaning services for the Public Works Department, Water Quality Control Division (WQC) to Wastewater Solids Management, Inc. of Yachats, OR, for a two (2) year agreement, with three (3) one-year extensions, at the sole discretion of the City, for an annual total estimated cost of $29,200.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-365

RESOLUTION APPROVING TWO (2) ANNUAL RETAIL ADVERTISING CONTRACTS WITH THE MODESTO BEE (MCCLATCHY NEWSPAPER GROUP), TO COINCIDE WITH THE FISCAL YEAR CALENDAR, CONSISTING OF, ONE (1) CONTRACT FOR A RETAIL NON-PROFIT "NO-COMMITMENT" ADVERTISING RATE OF $51.68 PER COLUMN INCH AND THE OTHER CONTRACT FOR A "12X COMMITMENT" BUSINESS PACKAGE ADVERTISING PLAN "D", AT A STANDARD AD SIZE AVERAGE RATE OF $31.25 PER COLUMN INCH AND AUTHORIZING THE CITY MANAGER TO EXECUTE BOTH CONTRACTS

WHEREAS, the City of Modesto is currently using the Modesto Bee (McClatchy Newspaper Group) as its primary advertising source for its advertising requirements, and

WHEREAS, the advertising services are required for classified and legal advertisements as required by law, and for retail advertisements for public information purposes, and

WHEREAS, in May of 2002 Council directed staff to consolidate the procurement of advertising through a central source in order to obtain the best contractual pricing available for the City, and

WHEREAS, Council has also requested that the annual retail advertising contracts be put in place to coincide with the fiscal year calendar, and

WHEREAS, the City's Purchasing Manager annually meets with the Modesto Bee and based on advertising volume commitments over the prior year identifies two (2) retail contract options which would best meet the City's retail advertising needs, and

WHEREAS, in June of 2005 staff went before Council with a recommendation to approve two (2) annual retail advertising contracts with the Modesto Bee to coincide with the fiscal year calendar, and

WHEREAS, in June of 2005, by Resolution No. 2005-322, Council approved both contracts and authorized the City Manager to sign the retail advertising contracts, and

WHEREAS, both retail contracts will expire on June 30, 2007, and

WHEREAS, staff once again met with the Modesto Bee to discuss what contract renewal options would be available to the City, and

WHEREAS, the Modesto Bee has agreed to renew both retail advertising contracts for another year based on the fiscal year calendar, and

WHEREAS, a price increase associated with the contract renewal will put the "non-profit no-commitment" contract rate at $51.68 per column inch, and

WHEREAS, this year the "12x -commitment business package" rate will once again include a single insertion in the Saturday Shopper and Vida with the average per column inch rate of $31.25, and

WHEREAS, the Purchasing Manager has determined that a process other than the formal bid procedure will result in a procurement of advertising for the City at the lowest cost commensurate with the desired quality, as provided for in MMC 8-3.204(d), and

WHEREAS, once signed, both advertising contracts shall be implemented and tracked by the City's Purchasing Manager, and with the City's Public Information Technician assisting departments with their advertising needs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves two (2), twelve (12) month retail advertising contracts with the Modesto Bee (McClatchy Newspaper Group), to coincide with the fiscal year calendar, consisting of one contract for a retail "no-commitment" non-profit rate of $51.68 per column inch and the other contract for a "12x-commitment" business package advertising plan "D" at an average rate of $31.25 per column inch, based on a standard 2x5 inch ad size run three (3) times in the Bee, combined with one-time insertions in both the Saturday Shopper and Vida as outlined in plan "D".

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-366

Print

RESOLUTION APPROVING AN AGREEMENT WITH THE DANCE ACADEMY FOR A MODIFIED PARKING FEE STRUCTURE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department received a request from The Dance Academy to modify parking rates after 6:00 p.m., and

WHEREAS, the current $5.00 flat rate after 6:00 p.m. will have a negative impact on business at The Dance Academy, and

WHEREAS, staff recommends entering into an agreement with The Dance Academy for a modified fee structure that will enable the City to capture the cost of maintaining the garage while providing a reasonable alternative to The Academy, and

WHEREAS, Resolution No. 2007-359 defines parking fees, where modification of these fees requires City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Council hereby approves the agreement between The Dance Academy and the City of Modesto for a modified parking fee structure.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-367

RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for the classification of Compost Facility Supervisor. The job specification for this classification is being amended to update the essential functions to more accurately reflect the current needs of the City. The job specification for the classification of Compost Facility Supervisor, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 26, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
NO. 2724

~~April 2006~~
June 2007

COMPOST FACILITY SUPERVISOR

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.

DEFINITION

To assign and supervise the work of crews engaged in compost site operations, maintenance, repair and/or construction work; and to provide staff assistance to higher-level management staff.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from higher level supervisory and management staff.

Exercises direct supervision over compost facility staff.

May provide supervision to technical support staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities may include, but are not limited to, the following:

Essential Functions:

Plan, prioritize, assign, supervise, and review the work of staff involved in the operations, maintenance, repair and construction of City compost facility activities, infrastructure, equipment, grounds, and land.

Assist in estimating and scheduling work to be done and in determining type and quantities needed for such work.

Assist in project management.

Develop and maintain preventative maintenance, asset and equipment inventory programs.

Supervise the use of special equipment involved in composting.

Maintain accurate and up-to-date records and conduct monitoring and testing programs as required by state and federal laws and regulations.

Essential Functions: (Continued)

Coach and evaluate subordinate staff on work performance.

Evaluate composting operations and activities, recommend improvements and modifications; prepare various reports on operations, maintenance, and activities.

Assist in developing and administering work unit and/or Division budget.

Participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures.

Answer questions and provide information to the public; investigate complaints and recommend corrective action as necessary to resolve complaints.

Coordinate work unit safety program including ensuring that training is provided as appropriate.

Provide training for staff in the full range of compost facility operations, maintenance, repair, and construction.

Oversee operation of a full range of heavy and light equipment as needed such as grinders, screens, windrow turners, backhoes, loaders, dump trucks, and various trucks.

Provide technical advice and assistance to subordinate staff.

Maintain time, material, and equipment use records.

Requisition supplies and materials.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Materials, methods, practices, equipment and elements of compost facility operations.

Types and level of operations, maintenance and repair activities generally performed in a compost operation.

Knowledge of: (Continued)

Principles of supervision, training, and performance evaluation.

Safe work practices.

Pertinent sections of health & safety, labor codes, and state and federal laws and regulations pertaining to compost facility operations.

Word processing and spreadsheet applications, and Internet usage necessary for job performance.

Report writing.

Cost accounting.

Ability to:

Plan, estimate, direct, coordinate, schedule and review the work of others.

Operate and maintain equipment and tools used in the field.

Identify and implement effective courses of action to complete assigned work.

Keep records and make reports.

Supervise, train and evaluate assigned staff.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain cooperative-working relationships with those contacted in the course of work.

Coordinate work assignments with other divisions, departments, agencies and volunteer groups.

Experience and Training Guidelines:

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Five years of increasingly responsible experience ~~performing compost facility operations, construction, repair and maintenance work,~~ involving solid waste, recycling, or composting program operations or related construction, repair and maintenance work, including two years of supervisory or four years of lead or journey responsibility. Related experience in compost facility operations is highly desirable.

Training:

Equivalent to completion of the twelfth grade.

License or Certificate:

Possession of an appropriate valid California Drivers License.

~~Possession of a valid Class A or Class B Commercial California Driver's License with specific endorsements, as assigned, is required within 45 days of appointment. Failure to obtain the required license may result in release from probation or termination.~~

~~When assigned, possession of a valid crane operators certificate, issued by the National Commission of Crane Operators is required within six months of assignment.~~

~~WORKING CONDITIONS~~

~~Environmental Conditions:~~

~~Field environment, hot and cold temperatures, and inclement weather; exposure to noise, dust, grease, smoke, fumes, gasses and potentially hazardous chemicals; work with wastewater bio-solids.~~

~~Physical Conditions:~~

~~Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time, and operating vehicles.~~

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: occasional performance of manual labor; frequent standing for long period of time; frequent bending and squatting. **Lifting**: frequent lifting up to 50 pounds; occasional lifting up to 75 pounds. **Vision**: constant use of overall

vision. **Dexterity**: frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking in person. May be required to wear ear protection or hear in noisy conditions. **Emotional/ Psychological**: frequent coworker contact; occasional working alone. **Environmental:** frequent exposure to loud noise; frequent exposure to chemicals, fumes, and other environmental substances.

WORKING CONDITIONS

Work is performed in a typical outdoor environment on a year-round basis subject to typical street or field noise and environment including exposure to loud equipment and machinery; exposure to exposure to noise, dust, grease, smoke, fumes, gasses, wastewater biosolids and potentially hazardous chemicals. Some positions may be assigned to remote locations. Positions may require occasional overtime or weekend work and travel is rare.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-368

RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION 1. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for Water Quality Control Operations Supervisor to more accurately reflect the current needs of the classification, as shown on the attached Exhibit "A", which is hereby made part of this resolution by reference, are hereby approved and made a part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 26, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
NO. 2381 June 2007

WATER QUALITY CONTROL OPERATIONS SUPERVISOR

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To plan, Res 2007-368 Attachment amended due to clerical error. Could not find where these were kept. e operations of the wastewater treatment plant and to perform relative to assigned area of responsibility.

SUPERVISION EXERCISED

Receive e Water Quality Control Plant Manager.
Exercis Senior Wastewater Treatment Plant Operators and other o

DISTINGUISHING CHARACTERISTICS

A change the binder with regular paper also.

This is esponsible for supervision of treatment plant operators and re rcise judgment and discretion in personnel matters and operat distinguished from Senior Wastewater Treatment Plant Opera is a lead worker for a shift and exercises technical superv e full supervisory authority. This class is distinguished from \ ger in that the latter is a management level class respor r quality operations.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Recommend and assist in the implementation of goals and objectives; establish schedules and methods for facilities operations; implement policies and procedures.

Plan, prioritize, assign, supervise and review the work of staff involved in treatment plant operations.

Evaluate operations and activities of assigned responsibilities; recommend improvements and modifications; prepare various reports on operations and activities.

Essential Functions: (Continued)

Participate in budget preparation and administration; prepare cost estimates for budget recommendations; submit justifications for budget items; monitor and control expenditures.

Participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures.

Supervise plant operations; assure proper adjustment of plant processes; coordinate sampling operations to assure proper balance of treatment steps and meeting effluent requirements; insure the proper conduct of laboratory tests performed by operations staff.

Research and prepare a wide variety of reports; maintain files and records on plant operations.

Marginal functions:

~~Act as Water Quality Control Superintendent as required.~~

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of wastewater treatment plant operations.

Operating principles of valves, pumps, and motors.

Principles and methods of bacteriological and chemical sewage analyses.

Effects and problems of industrial waste in wastewater treatment processes.

Safety principles and practices.

Pertinent Federal, State, and local laws, codes and regulations.

Principles of supervision, training and performance evaluation.
Knowledge of: (Continued)

Principles and procedures of record keeping.

Budgeting procedures and techniques.

Ability to:

Direct the operations of wastewater treatment plant facilities.

Establish and maintain effective sample procedures of plant operations and effluent.

Insure the proper chemical testing procedures performed by operations staff.

Diagnose operating problems and direct effective correction procedures.

Prepare required reports and maintain complete record keeping procedures.

Supervise, train and evaluate assigned staff.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain cooperative working relationships with those contacted in the course of work.

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Five years of increasingly responsible experience in wastewater treatment plant operations, including one year of supervisory or lead responsibility.

Training:

Equivalent to the completion of the twelfth grade. Additional specialized training in wastewater treatment operations or a related field is desirable.

License or Certificate:

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of a valid Grade III Wastewater Treatment Plant Operator certificate as issued through procedures established by the California State Water Resources Control Board. Possession of a Grade IV Wastewater Treatment Plant Operator certificate as issued through procedures established by the California State Water Resources Control Board is required within eighteen (18) months of appointment.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office and wastewater treatment plant environment subject to typical office noise and environment. Positions may require occasional overtime or weekend work and travel is rare.

~~Environmental Conditions:~~

~~Water and wastewater treatment plant environment; exposure to noise, dust, grease, smoke, fumes, gasses and potentially hazardous chemicals; work in or with wastewater.~~

~~Physical conditions:~~

~~Physical condition necessary for walking, standing, or sitting for prolonged periods of time.~~

Physical and Mental Requirements:

Mobility: Frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 10 pounds; occasionally up to 25 pounds. **Vision**: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity**: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking, in person and on the phone. **Emotional/Psychological**: frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental**: exposure to noise, dust, grease, smoke, fumes, gasses and potentially hazardous chemicals; work in or with wastewater.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-369

RESOLUTION APPROVING AN AGREEMENT WITH SYLVAN UNION SCHOOL DISTRICT IN THE AMOUNT OF $50,293 FOR THE PROVISION OF ONE HALF OF A MODESTO POLICE OFFICER/SCHOOL RESOURCE OFFICER (SRO) SALARY AND BENEFITS TO PROVIDE DIRECT LAW ENFORCEMENT SERVICES, EXPERTISE AND TRAINING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Sylvan Union School District (District) requires one Modesto Police Officer/School Resource Officer (SRO) to provide direct law enforcement services, Campus Supervisor training, in services, and consultations with site staff and District administrators, and liaison between Modesto Police Department and Sylvan Union Schools, and

WHEREAS, the Modesto Police Department can provide a specially trained, uniformed police officer and take any enforcement action at the school site, if warranted, and

WHEREAS, the officer's presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the term of this agreement is August 27, 2007 to June 6, 2008, and

WHEREAS, District and Modesto Police Department would like to continue the 50/50 partnership to share the cost to fund a Modesto Police Officer/SRO at the schools in the District, and

WHEREAS, District will reimburse the City of Modesto $50,293 for the services of one half a Modesto Police Officer's salary and benefits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the City of Modesto and the Sylvan Union School District in the amount of $50,293 for the provision of one-half of a Modesto Police Officer/School Resource Officer salary and benefits to provide direct law enforcement service, expertise and training.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-370

RESOLUTION ACCEPTING THE 2007 ALCOHOLIC BEVERAGE CONTROL (ABC) GRANT PROJECT IN THE AMOUNT OF $125,000 FROM THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL TO REDUCE CRIME AND EXCESSIVE CALLS FOR SERVICE IN AND AROUND STANISLAUS COUNTY'S DISORDERLY AND DISRUPTIVE ABC LICENSED ESTABLISHMENTS AND TO REDUCE SALES OF ALCOHOL TO MINORS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as the Modesto ABC Project to be funded in part from funds made available through the Grant Assistance to Local Law Enforcement Agencies Project administered by the Department of Alcoholic Beverage Control (hereafter referred to as ABC), and

WHEREAS, acceptance of said $125,000 grant will allow agencies in Stanislaus County and other outlying areas to work in collaboration to proactively address alcohol related crimes in Stanislaus County,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the 2007 Alcoholic Beverage Control (ABC) Grant Project in the amount of $125,000 from the State Department of Alcoholic Beverage Control to reduce crime and excessive calls for service in and around Stanislaus County's disorderly and to reduce sales of alcohol to minors.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-371

RESOLUTION AMENDING THE FISCAL YEAR 2007/2008 OPERATING BUDGET, ESTIMATING REVENUE OF $125,000 AND APPROPRIATING FUNDS

WHEREAS, the Police Department acquired a grant award in the sum of $125,000 from the State Department of Alcoholic Beverage Control for a project to reduce crime and excessive calls for service in and around Stanislaus County's disorderly and disruptive ABC licensed establishments and to reduce sales of alcohol to minors, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2007/2008 Operating Budget is hereby amended as indicated below to initiate said grant project:

	Expense:		
To:	0410-190-2992-0130	$91,500	Officers' Overtime Hours
	0410-190-2992-0240	$25,000	Intergovernmental Services
	0410-190-2992-0262	2,500	Officers' Operating Expenses
	0410-190-2992-0356	2,500	Program Equipment
	0410-190-2992-0207	3,500	Required Conferences
	Total	**$125,000**	
	Revenue:		
To:	0410-190-2992-3190	$125,000	ABC Grant Funds

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-372

RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR THE 2007 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM WITH THE U.S. DEPARTMENT OF JUSTICE, IN THE AMOUNT OF $142,462, FOR THE PROCUREMENT AND IMPLEMENTATION OF A REGIONAL CRIMINAL JUSTICE INFORMATION SHARING SYSTEM, IN PARTNERSHIP WITH THE STANISLAUS COUNTY SHERIFF'S OFFICE AND OTHER CRIMINAL JUSTICE AGENCIES IN STANISLAUS COUNTY, AND AUTHORIZING THE CITY MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE SAID GRANT APPLICATION

WHEREAS, the City of Modesto Police Department can make application to the U.S. Department of Justice for the 2007 Edward Byrne Memorial Justice Assistance Grant (JAG) Program, and

WHEREAS, the Police Department wishes to submit an application to assist in funding the procurement and implementation of a Regional Criminal Justice Information Sharing system, and

WHEREAS, videos of events could provide evidence of officer and offender actions pre-and post- event, and

WHEREAS, acceptance of this grant enhances Healthy and Safe Strategic Action Plan action, H.1.B.8., which calls for obtaining public service grants, and

WHEREAS, the total grant project will be $142,462, and

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

WHEREAS, as required by the dictates of this program, the Police Department will present a specific budget for funding for the purchase of hardware/software that will be required to support the Regional Criminal Justice Information Sharing system to the

Council of the City of Modesto, in a regular meeting, after notification that the application has been accepted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of an application for the 2007 Edward Byrne Justice Memorial Justice Assistance Grant (JAG) Program with the U.S. Department of Justice, in the amount of $142,462, for the procurement and implementation of a Regional Criminal Justice Information Sharing system, in partnership with the Stanislaus County Sheriff's Office and other criminal justice agencies in Stanislaus County.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-373

RESOLUTION AMENDING THE FISCAL YEAR 2007/08 OPERATING BUDGET ESTIMATING REVENUE OF $142,462 AND APPROPRIATING FUNDS UPON ACCEPTANCE OF THE GRANT

WHEREAS, the Police Department can make application to the U.S. Department of Justice for the 2007 Edward Byrne Memorial Justice Assistance grant (JAG) Program in the sum of $142,462, and

WHEREAS, the funds will be used for assisting in funding of the Modesto Police Department's procurement and implementation of a Regional Criminal Justice Information sharing system, and

WHEREAS, the grant will commence on October 1, 2007 and end on September 30, 2008, and

WHEREAS, the City shall be compensated $142,462 from the U.S. Department of Justice for this program, and

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

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2007/08 Operating Budget is hereby amended as follows:

Expenses:

To:	0410-190-2906-5000	$ 142,462	2007 Byrne Justice Assistance Grant

Revenue:

From:	0410-190-2906-3508	$ 142,462	Grant Revenue

BE IT FURTHER RESOLVED that the Finance Director, or his authorized designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-374

RESOLUTION APPROVING A PUBLIC IMPROVEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND CARMAX, FOR THE INSTALLATION OF 815 LINEAL FEET OF INTERIM STREET IMPROVEMENTS IN THE ESTIMATED AMOUNT OF $374,342.97 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, CARMAX ("Developer"), is in the process of developing a commercial property located at the northeast corner of McHenry Avenue and Claratina Avenue, commonly known as CARMAX, and

WHEREAS, in connection with the development of said CARMAX, Developer is required to install frontage street improvements and appurtenances thereto, located at the northeast corner of McHenry Avenue and Claratina Avenue ("Improvements"), and

WHEREAS, Development Standards 2 and 3 associated with Stanislaus County Planning Commission development standards rezone Application No. 2005-15, as amended, requires that the Developer construct and dedicate to City certain curb, gutter, sidewalk and street improvements along the Claratina Avenue frontage, and

WHEREAS, Development Standards 3 and 5 associated with Stanislaus County Planning Commission development standards rezone Application No. 2005-15, as amended, requires that the Developer file certain securities to secure the construction and dedication obligations with respect to said Improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Public Improvement Agreement between the City of Modesto and CARMAX related to the securities for the installation of 815 lineal feet of interim street improvements in the estimated amount of $374,342.97.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-375

RESOLUTION AMENDING THE FISCAL YEAR 2007 OPERATING BUDGET APPROVING THE APPROPRIATION OF $125,000 FROM THE GAS TAX RESERVE TO FUND 0700-160-1605 IN ORDER TO FULLY FUND ELECTRICAL UTILITY COSTS FOR FISCAL YEAR 2006/2007, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE APPROPRIATION IN THE AMOUNT OF $125,000

WHEREAS, Electrical Utility costs within the City of Modesto have increased over the course of the past two calendar years, and

WHEREAS, the City of Modesto experienced new building growth, adding more street lights and traffic signals into our utility system, and

WHEREAS, the increase experienced this fiscal year is estimated to be $125,000 over our utilities budget, and

WHEREAS, the Finance Committee at their June 25, 2007, meeting reviewed and concurs with staff's recommendation to amend the Fiscal Year 2007 Operating Budget approving the appropriation of $125,000 from the Gas Tax Reserve to Fund 0700-160-1605 in order to fully fund Electrical Utility costs for the remainder of Fiscal year 2006/2007, and

WHEREAS, existing policy requires City Council approval to appropriate funds from reserve to the Operating Budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2007 Operating Budget approving the appropriation of $125,000 from the Gas Tax Reserve to Fund 0700-160-1605 in order to fully fund the Electrical Utility costs for the remainder of Fiscal Year 2006/2007.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the appropriation in the amount of $125,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-376

RESOLUTION ACCEPTING RELINQUISHMENT OF CALIFORNIA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY TO THE CITY OF MODESTO FOR THE "CONSTRUCTION OF THREE DEDICATED RIGHT-TURN LANES AT: 1) SISK ROAD ONTO CARPENTER ROAD OVERPASS, 2) CARPENTER ROAD OVERPASS ONTO NORTHBOUND ROUTE 99 ON-RAMP, 3) ORANGEBURG AVENUE ONTO BRIGGSMORE AVENUE" PROJECT

WHEREAS, in Fiscal Year 2005, Congestion Mitigation and Air Quality (CMAQ) grants became available to reduce pollution and improve air quality, and

WHEREAS, Council authorized staff to take this opportunity to capture federal dollars for our local projects, and

WHEREAS, the "Construction of Three Dedicated Right-turn Lanes at: 1) Sisk Road Onto Carpenter Road Overpass, 2) Carpenter Road Overpass Onto Northbound Route 99 On-ramp, 3) Orangeburg Avenue Onto Briggsmore Avenue," project along with other projects was eligible for the CMAQ grant, and

WHEREAS, construction will occur on previously disturbed areas within local agency and California Department of Transportation right of way, including the drainage basin located between Sisk Road and State Route 99, and

WHEREAS, the roadway will be re-striped to accommodate the right-turn lanes, and

WHEREAS, the City of Modesto currently maintains the slope from Sisk Road into the drainage basin, and

WHEREAS, the California Department of Transportation desires to relinquish to the City of Modesto the slope within California Department of Transportation's right of

way with the widening of Sisk Road for the right-turn lane, in conformance with Section 73 of the Streets and Highways Code, and

WHEREAS, the City of Modesto desires to accept from the California Department of Transportation, the Relinquishment of said slope from Sisk Road into the drainage basin to keep maintaining this slope under the City's care.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby consents to accept from the California Department of Transportation the relinquishment of right of way for the "Construction of Three Dedicated Right-turn Lanes at: 1) Sisk Road Onto Carpenter Road Overpass, 2) Carpenter Road Overpass Onto Northbound Route 99 On-ramp, 3) Orangeburg Avenue Onto Briggsmore Avenue," project.

BE IT FURTHER RESOLVED that the execution of this resolution constitutes a waiver of the ninety (90) days "Notice of Intent to Relinquish" required in Section 73 of the Streets and Highway Code of the statutes related to the California Department of Transportation for superseded streets.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-377

RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "ROSE/CELESTE SEWER LIFT STATION PROJECT" FROM 8 PERCENT ($120,470.00) TO 12.1 PERCENT ($181,731.62) OF THE ORIGINAL CONTRACT PRICE WITH PRESTON PIPELINES, INC.

WHEREAS, on March 14, 2006, the City Council awarded a $1,505,875.00 contract to Preston Pipeline, Inc., to construct the "Rose/Celeste Sewer Lift Station" project, and

WHEREAS, the contractor started work on May 22, 2006, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the new sewer lift station, and

WHEREAS, the cost of the extra work was estimated to be as high as $181,731.62, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $120,470.00,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the project entitled "Rose/Celeste Sewer Lift Station" from 8 percent ($120,470.00) to 12 .1 percent ($181,731.62) of the original contract price with Preston Pipelines, Inc.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-378

RESOLUTION AMENDING THE FY 2006-2007 CAPITAL IMPROVEMENT BUDGET TO: APPROPRIATE $60,235.00 FROM WASTEWATER RESERVES TO PROJECT ACCOUNT NUMBER 6210-430-B490-6050, ROSE/CELESTE SEWER LIFT STATION, THEREBY FULLY FUNDING THE PROJECT TITLED "ROSE/CELESTE SEWER LIFT STATION PROJECT"

WHEREAS, on March 14, 2006, the City Council awarded a $1,505,875.00 contract to Preston Pipelines, Inc., to replace the existing lift station at the Rose Avenue and Celeste Drive intersection, and

WHEREAS, extra work was required to achieve a completed project that was not anticipated at the start of construction, resulting in added construction costs not originally provided for in the project account, and

WHEREAS, the items of work now need to be added to the contract by change order, and

WHEREAS, a shortage of funds will occur once the change orders are executed, and

WHEREAS, the shortage resulted in additional funds being required to fully fund the project,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2006-2007 Capital Improvement Budget to appropriate $60,235 from Wastewater Reserves to project account number 6210-430-B490-6050, Rose/Celeste Sewer Lift Station, thereby fully funding the project titled "Rose/Celeste Sewer Lift Station."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-379

RESOLUTION APPROVING THE PHASES 1A AND 1B TERTIARY WASTEWATER TREATMENT PROJECT PRELIMINARY DESIGN REPORT DATED JUNE 2007 AS COMPLETE

WHEREAS, on February 13, 2007, by Resolution No. 2007-110, the Council approved an Agreement with Carollo Engineers to produce a Preliminary Design Report (PDR) for the Phases 1A and 1B Tertiary Wastewater Treatment Project, and

WHEREAS, the PDR presents a preliminary design for the proposed Phase 1A and 1B improvements, as originally described in the Wastewater Master Plan, and is a key source document for the final project design of Phases 1A and 1B, and

WHEREAS, the PDR provides preliminary engineering drawings of the proposed facilities, estimated project costs, and a projected schedule for implementation, and

WHEREAS, Carollo Engineers has completed the Phases 1A and 1B Tertiary Wastewater Treatment Project Preliminary Design Report,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Phases 1A and 1B Tertiary Wastewater Treatment Project Preliminary Design Report as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: R. Susana Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-380

RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 80-272 ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED-DEVELOPMENT ZONE P-D (258)" (FIRST BAPTIST CHURCH)

WHEREAS, Planned Development Zone, P-D(258), was approved by the City Council on March 25, 1980 by Ordinance No. 1930 C-S, which became effective on may 8, 1980, to allow the First Baptist Church Campus assembly, classrooms, offices, housing and parking facilities, property located at the southeast corner of Needham and 11th Streets, and

WHEREAS, City Council Resolution No. 80-272, which was adopted on March 25, 1980, approved the development plan for Planned Development Zone, P-D(258), and contained the conditions of approval thereof, and

WHEREAS, City Council Resolution No. 81-783, which was adopted on September 8, 1981, approved an Amendment to Planned Development Zone, P-D(258), to allow the addition of a radio broadcasting tower atop a re-locatable building on the easterly side of 11th Street, south of Needham Avenue, and

WHEREAS, Planning Commission Resolution No. 83-191, adopted on December 5, 1983, approved an Amendment to Planned Development Zone, P-D(258) for a revised plot plan to allow a new office building and additional parking, and

WHEREAS, Planning Commission Resolution No. 2000-15, adopted on February 7, 2000, approved an Amendment to Planned Development Zone, P-D(258), for a new sign package for the First Baptist Church, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(258), was filed by First Baptist Church on October 10, 2005, to allow the development of a new, three-story, 95,719-square-foot multipurpose building and accessory structures, and

WHEREAS, after a public hearing held on May 21, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-20, that the amendment to Planned Development Zone P-D(258), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed multipurpose building is consistent with the current General Plan land use designation for the site. The site is within the Redevelopment Planned District (RPD) outlined in the Modesto Urban Area General Plan. The land use designation for this site within the RPD is Commercial-Residential-Public (CRP). The land use designation allows for mixed-use developments and the infill of the development area.

2. The proposed multipurpose building is compatible with the adjacent residential and commercial uses. The parcels surrounding the Church are all zoned for commercial uses. The existing commercial uses of the parcels to the north and southwest provide a buffer between the proposed multipurpose building and established neighborhoods.

3. The proposed P-D Amendment furthers goals for the Downtown North Neighborhood District outlined in the Draft Redevelopment Plan, such as development of residential and professional office uses to serve as a transition between the downtown and established residential neighborhoods.

WHEREAS, said matter was set for a public hearing of the City Council to be held on June 26, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of First Baptist Church for an amendment to Planned Development Zone, P-D(258), should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-20 and quoted above, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 and 2 of Resolution No. 80-272 entitled " A Resolution Approving a Development Plan For Planned-Development Zone P-D(258)" are hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(258), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled "First Baptist Church Multipurpose Building" as amended in red, stamped approved by the City Council.

2. All conditions of City Council Resolution Nos. 80-272, 81-783, and Planning Commission Resolution Nos. 83-191 and 2000-15, not in conflict with this resolution shall remain in full force and effect.

3. Prior to occupancy, the applicant shall construct an eight-foot-high wrought-iron-fence with masonry columns along a portion of Needham and 11th Streets, as shown on the stamped approved site plan.

4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

5. A six-foot dedication along Needham Street consistent with Standard Specifications shall be made prior to the issuance of a building permit or at any time requested by the City Engineer or designee to alleviate a health, safety, or traffic problem in the area.

6. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and submitted for approval by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

7. Prior to issuance of a building permit, the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

8. Electric facilities and overhead lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities shall be granted as required. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules. Costs for relocation and/or undergrounding the District's facilities at the request of others will be borne by the requesting party.

9. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.

10. Trash enclosures shall be of a size and design to permit the storage and removal of required recyclable material receptacles, or a separate enclosure of the collection for recyclable materials shall be provided as approved by the Public Works Director or designee.

11. Trash enclosures shall be bermed to prevent stormwater run-on and graded to drain to adjacent landscape areas as required by the Public Works director or designee.

12. Prior to occupancy, the applicant shall install large boulders at the corner of Needham and 11th Streets as well as decorative bollards along the portion Needham and 11th Streets adjacent to the Children's Play Area, as shown in the plot plan titled "First Baptist Church Multipurpose Building" as amended in red, stamped approved by the City Council, to the satisfaction of the Director of Public Works or designee.

13. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building and Development Services all fire hydrants and Fire Department Connections (FDC) required by the Fire Chief. Fire hydrant spacing and distribution for this zone is 300 feet, not to exceed 150 feet on a street frontage to a hydrant.

All hydrants and FDC's required by the Fire Chief shall be installed and operable prior to construction of any structures.

14. Fire Department Connection (FDC) for automatic fire sprinklers shall be accessible and located within 90 feet of a fire hydrant.

15. The developer shall install automatic fire sprinklers in the proposed multipurpose building and all other buildings over 5,000 sq ft.

16. Prior to issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

17. Ten-foot-wide public utility easements, and six-foot-wide planting easements located within the ten-foot-wide public utility easements, as required by the City Engineer or designee shall be dedicated along all street frontages.

18. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as approved by the Public Works Director or designee. Storm drain improvements shall be constructed in accordance with the approved plans.

19. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

20. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

21. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/ suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

22. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

23. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

24. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

25. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

26. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

27. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

28. Suspend excavation and grading activity when winds exceed 20 mph.

29. Limit the area subject to excavation, grading and other construction activity at any one time.

30. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

a. A hammer or any other device or implement used to pound or strike an object.

b. An impact wrench or other tool or equipment powered by compressed air.

c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for

exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

31. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K."

"SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(258):

The entire construction program be accomplished in one phase, construction to begin on or before June 26, 2009, and completion to be not later than June 26, 2010."

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-381

RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(258),PROPERTY LOCATED AT THE SOUTHEAST CORNER OF NEEDHAM AND 11TH STREETS (FIRST BAPTIST CHURCH)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, the First Baptist Church has proposed an amendment to Planned Development Zone, P-D(258) to allow for the development of a three-story, 95,719-square-foot multi-purpose building and accessory structures within the existing P-D site, on the property located at the southeast corner of Needham and 11th Streets, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2007-20 ("Initial Study") reviewed the proposed amendment to P-D(258) to determine whether the project is within the scope of the project covered by the Master EIR, and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the

environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on June 3, 2007 the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on June 26, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to Planned Development Zone, P-D(258), a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2007-20

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2007-20)

For the proposed:

Amendment to Planned Development P-D (258), P-PDA-05-012
(Dennis Smith, Applicant)

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

April 12, 2007

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the **Amendment to (P-D) 258 (P-PDA-05-012)** is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: First Baptist Church, Amendment to Planned Development P-D (258), P-PDA-05-012

B. Address or Location: Southeast of the corner of 11th and Needham Streets

C. Applicant: Dennis Smith

D. City Contact Person: David Wage

Project Manager:	David Wage, Assistant Planner
Department:	Community and Economic Development Department
Phone Number:	(209) 577-5302
E-mail address:	dwage@modestogov.com

E. Current General Plan Designation(s): The site is within the Redevelopment Planned District (RPD) outlined in the Modesto Urban Area General Plan. The land use designation for this site within the RPD is Commercial-Residential-Public (CRP). The land use designation allows for mixed-use developments and the infill of the development area.

F. Current Zoning Classification(s): P-D Planned Development, SubUse: R-1, Low Density Residential

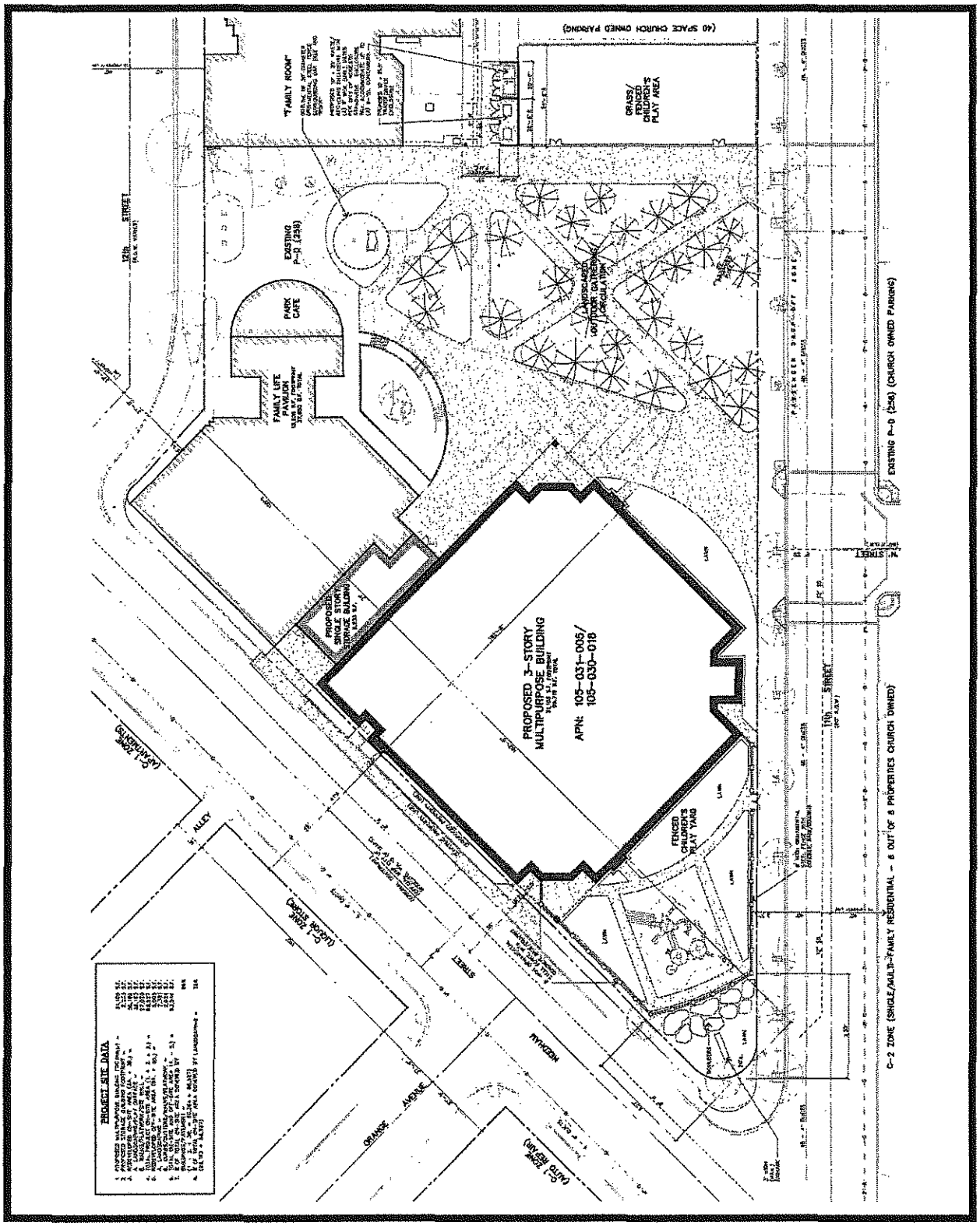
G. Surrounding Land Uses:
North: (C-1) Neighborhood Commercial
South: (C-2) General Commercial
East: (C-2) General Commercial
West: (C-2) General Commercial

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

This amendment to P-D (258) includes the addition of a new multi-purpose building, a single-story storage building and a children's play area. The proposed storage building will be approximately 2,200 square feet in size. The proposed three-story multipurpose building will be approximately 60 feet high and 95,719 square feet in size. The site of the new buildings and accessory development will be southeast corner of Needham and 11th Streets. 131 spaces of existing parking and approximately 17,000 square feet of classroom space will be removed in order to accommodate the proposed expansion. The multipurpose building will primarily be used for children's, youth and adult classes and programs.

I. Other Public Agencies Whose Approval is Required:

None.



NORTH

SITE PLAN

IIII. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. _X_ **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ____ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ____ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Project Manager	Assistant Planner Title	April 12, 2007 Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X ☐

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X ☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

DISCUSSION:
This is an application to amend to P-D (258) and allow the addition of a new multi-purpose building, a single-story storage building and a children's play area. The proposed storage building will be approximately 2,200 square feet in size. The proposed three-story Multi-purpose Building will be approximately 60 feet high and 95,719 square feet in size. The site of the new buildings and accessory development will be southeast corner of Needham and 11th Streets. Due to the nature of the addition, and the proposed use of the building at off peak hours, there will not be a significant change in existing road capacities or levels of service.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project.*

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	YES	NO
(1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.	☐	X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

		YES	NO
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and found:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. The design and layout of the proposed parking area will comply with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a building addition for an existing church. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

DISCUSSION:

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project site and the surrounding property are located within a fully developed urbanized area, both inside and outside the corporate City limits.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant.*

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. *This cumulative impact is considered significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project. It is not on or adjacent to any park sites, nor is it near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity; it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is infill development that will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

2. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

Noise Measures:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

   The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

A. A hammer, or any other device or implement used to pound or strike an object.

B. An impact wrench, or other tool or equipment powered by compressed air.

C. A hand-powered saw.

D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

1. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K

Storm Drainage Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-382

A RESOLUTION REVISING TIPPING FEES AT THE STANISLAUS RESOURCE RECOVERY (WASTE-TO-ENERGY) FACILITY AND RESCINDING RESOLUTION NO. 2004-284

WHEREAS, the City of Modesto and the County of Stanislaus are joint partners in the Waste-to-Energy Facility, which is operated by Covanta Stanislaus, and

WHEREAS, tipping fees at the Waste-to-Energy Facility are set by joint action of the Contracting Communities, which are the City of Modesto and Stanislaus County, and

WHEREAS, tipping fees are established to pay debt service, operation and maintenance costs and pass through costs, such as insurance, property taxes, and various permits and fees that are incurred by Covanta Stanislaus, as provided for in a Service Agreement, and

WHEREAS, in 1990, the City and County established a fee of $1.50 per ton to pay for AB 939 program planning and implementation, and

WHEREAS, in 1990, the City and County established a fee of $1.50 per ton to pay for Household Hazardous Waste program planning and implementation, and

WHEREAS, these fees have not changed during the 17 years since they were first implemented, and

WHEREAS, due to inflation, increases in costs, increases in the types of materials that must be diverted from disposal, and new mandates, the fees established in 1990 no longer are sufficient to cover the costs of program implementation, and

WHEREAS, without an increase in these fees, the City and County risk being in violation of State mandates on disposal reduction, and could be subject to fines by the State for failure to implement programs required to meet the disposal reduction mandates, and

WHEREAS, the Contracting Communities approved a $25.00 per ton tipping fee at the Waste-to-Energy Facility which became effective August 1, 2004, which fee consisted of a base fee of $22.00 per ton for disposal, a $1.50 per ton AB 939 Program fee and a $1.50 per ton Household Hazardous Waste Program fee, and

WHEREAS, the Council of the City of Modesto must concur with changes in fees charged at the Facility, and

WHEREAS, at its April 26, 2007, meeting, the Solid Waste-to-Energy Executive Committee discussed a $1.50 per ton increase in the AB 939 Program fee, which would bring the fee to $3.00 per ton, and a $1.50 per ton Household Hazardous Waste Program fee, which would bring the fee to $3.00 per ton, and has recommended approval of said increases in the AB 939 and Household Hazardous Waste Program Fee fees, upon concurrence by the County Board of Supervisors, to become effective August 1, 2007, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on June 26, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the increase in AB 939 Program fee and the Household Hazardous Waste Program fee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a $1.50 per ton increase in the AB 939 Program fee, which would bring the fee to $3.00 per ton, and a $1.50 per ton increase in the Household Hazardous Waste Program fee, which would bring the fee to $3.00 per ton, with both fee increases to become effective August 1, 2007, which fees, when added to the current base fee of $22.00 per ton for disposal, would result in a combined tip fee of $28.00 per ton.

BE IT FURTHER RESOLVED that that Resolution No. 2004-284 is hereby rescinded effective July 31, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-383

RESOLUTION APPROVING THE FY 2007-2008 BUDGET FOR THE STANISLAUS RESOURCE RECOVERY ("WASTE-TO-ENERGY") FACILITY

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the "Waste-to-Energy" or "WTE" Facility), and

WHEREAS, the Agreement established a Solid Waste-to-Energy Executive Committee ("Executive Committee"), which prepares an annual budget for each fiscal year, and submits said annual budget to the City Council and Board of Supervisors for approval by August 1st of a year, and

WHEREAS, said Executive Committee may also recommend adjustments to an approved annual budget as necessary to provide sufficient funding for project activities, and

WHEREAS, at its March 22, 2007, meeting the Executive Committee also considered the proposed FY 2007/2008 Budget as shown in Attachment "A", attached hereto and incorporated herein by reference, and the Executive Committee unanimously approved forwarding this proposed FY 2007-2008 Budget to the Modesto City Council and the Stanislaus County Board of Supervisors for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the FY 2007-2008 Waste-to-Energy Project Budget, a copy of which is attached hereto as Attachment "A" and incorporated herein by reference, as recommended by the Executive Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT A
Stanislaus Waste to Energy Project
Proposed Budget FY 2007-2008

Expenditures			Revenues		
Operatings & Maintainence Expense		**$ 10,663,070**	**Electric Credit**		
			Revenue from Electricity Sales	8,321,134	
Pass-Through Costs			Fixed Capacity Charge	3,179,500	
Ash Disposal	1,206,768		Gross Electric Revenues	11,500,634	
Process Rejects	4,014		90% of Gross Electric Revenues	10,350,571	
Recovered Materials (Credit)	-60,971		**Total Electric Credit**		**$ 10,350,570**
Insurance	369,166				
Ferrous Metals	26,250		**RRA Interest Earnings**		**$ 1,242,004**
Property Tax	517,754				
Sales Tax	183,493		**Disposal Fees**		**$ 6,812,400**
Trustee Fees	10,500				
Site Lease	198,000		**Supplemental Waste Disposal**		**$ 350,000**
Air Permit Fees	47,105				
County Fees/Other Fees	0		**Use of RRA Fund Balance**		**$ 6,539,594**
Franchise Fees	10,390				
Carbon Expense	140,400				
Dolomitic Lime Expense	178,469				
Total Pass-Through Costs		**$ 2,831,338**			
Debt Service Expense					
Bond Principal Payment Due January 1st	6,935,000				
Bond Interest Expense	1,050,706				
Liquidity Fee	48,209				
Remarketing Fee	14,834				
DSRF Interest Earnings	308,595				
Principal Account Interest Earnings	168,457				
Net Debt Service Expense		**$ 7,571,696**			
Annual Administrative Expenses					
60400-Communications	0				
61600-Maintenance	0				
62200-Memberships (IEPA)	21,218				
62410-Rebates & Refunds (Arbitrage Liability)	103,500				
62600-Office Supplies	518				
62780-Books/Periodicals	518				
63000-Professional & Special Services	207,000				
(Leg, Lobbyist, Audits, F/A's, Energy Consultant)					
63280-Contracts	0				
63400-Engineering Services (Consulting Eng.)	155,250				
63410-City of Modesto Admin.	228,200				
63640-Legal Services (outside Counsel)	103,500				
65000-Public/Legal Notices	207				
65100-Rent/Equipment	0				
65300-Rent/Structure	0				
65780-Education/Training	3,105				
67040-Travel Expenses (Wte conf.)	7,763				
74080-Central Services Printing	0				
74250-County Counsel	20,700				
74301-County Auditor	72				
74302-County Purchasing	93				
74370-County Stores	0				
74520-County Admin. (incl. project position)	314,951				
74881-A-87 Charges	-134				
82130-Office Equipment	0				
84420-Personal Computer Equipment	0				
73010-Contributions to other agencies:	1,470,000				
(HHW and AB939 surcharges)					
Total Administrative Expenses		**$ 2,636,460**			
Total Expenditure		**$ 23,702,564**	**Total Revenue**		**$ 23,702,564**

AMENDED on 12-9-2008 By Resolution 2008-684, 686, 687, 688

AMENDED on 10-27-09 By Resolution 2009-522 and 2009-523

RESCINDED

Print

SEP 11 2012

MANAGEMENT WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2012-369

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-384

A RESOLUTION GRANTING SALARY CHANGES TO UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES, EFFECTIVE JUNE 26, 2007, AND RESCINDING RESOLUTION NO. 2005-6002

WHEREAS, by Resolution No. 95-530 which became effective on November 7, 1995, the City Council amended the salary schedules for unrepresented Management and Confidential employees, excluding Charter Officers and Executives, to incorporate a 9-Step Salary Step Plan, and

WHEREAS, by Resolution No. 2003-331 which became effective on June 24, 2003 the City Council established new salary schedules and class ranges for unrepresented Management and Confidential non-sworn employees, and

WHEREAS, the Council of the City of Modesto desires to approve a five and one half (5.5%) percent increase in salary ranges for unrepresented Management and Confidential employees, including Executives and Charter Officers, effective June 26, 2007, and

WHEREAS, the Council of the City of Modesto desires to approve a five and one-half (5.5%) percent across-the-board salary increase for unrepresented Management and Confidential employees, excluding Executives and Charter Officers, effective June 26, 2007. Actual salary increases for Executives shall be at the discretion of the City Manager, subject to performance criteria, within approved salary ranges. Actual salary increases for the Charter Offices of City Clerk/Auditor and City Attorney shall be five and one half (5.5%) percent effective June 26, 2007,

WHEREAS, the Council of the City of Modesto previously authorized an increase in salary for the City Manager effective July 1, 2007, per Council Resolution No. 2007-320.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as

Attachment Amended by
2008-169 4/1/08
2008-182 4/1/08
2008-303 5/27/08
2008-304 5/27/08

AMENDED by Resolution

follows:

SECTION 1. SALARY RANGES, RATES AND EFFECTIVE DATES. The salary rates, salary ranges and salary steps as set forth in the following exhibits which are attached hereto and made a part hereof provide for a five and one half (5.5%) percent across-the-board salary adjustment for unrepresented Management and Confidential employees effective June 26, 2007, subject to Pay-for-Performance criteria. For Executive Management and Charter Officers, salary ranges shall be increased by five and one half (5.5%) percent effective June 26, 2007. Actual salary increases for Executives, excluding Charter Officers, shall be at the discretion of the City Manager, within approved salary ranges. Actual salary increases for the Charter Offices of City Clerk/Auditor and City Attorney shall be five and one-half (5.5%) percent effective June 26, 2007. A salary increase for the City Manager has been previously authorized per Council Resolution No. 2007-320, effective July 1, 2007.

1. Exhibit "A" entitled "City Of Modesto Class Range Table, Unrepresented Management And Confidential Non-Sworn Classes, Effective June 26, 2007."

2. Exhibit "B" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 07/08 Effective June 26, 2007 - Schedule H Management/Confidential – Non-Sworn Unrepresented."

3. Exhibit "C" entitled "City Of Modesto Class Range Table, Fire Management Classes, Effective June 26, 2007."

4. Exhibit "D" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 07/08, Effective June 26, 2007 - Schedule E Management/Confidential - Fire- 80 hours - Division Chief."

5. Exhibit "E" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 07/08, Effective June 26, 2007 - Schedule X, Fire Management - 80 Hrs. - Battalion Chief."

6. Exhibit "F" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 07/08, Effective June 26, 2007 - Schedule Y, Fire Management - 112 Hrs. - Battalion Chief."

7. Exhibit "G" entitled "City Of Modesto Class Range Table, Police Management Classes (Unrepresented), Effective June 26, 2007."

8. Exhibit "H" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 07/08, Effective June 26, 2007 - Schedule G Management/Confidential - Police - Unrepresented."

9. Exhibit "I" entitled "City Of Modesto Class Range Table, Executive Management, Effective June 26, 2007" which includes Charter Officers.

10. Exhibit "J" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 07/08, Effective June 26, 2007 - Executive Management."

SECTION 2. CHARTER OFFICERS. The salaries for the positions of the Charter Officers shall be as follows:

TITLE	HOURLY	BI-WEEKLY	MONTHLY	EFFECTIVE
City Manager George W. Britton	86.6436	6,931.49	15,076.00	July 1, 2007
City Attorney Susana Alcala Wood	75.3051	6,024.41	13,103.09	June 26, 2007
City Clerk Jean Morris	52.1746	4,173.97	9,078.38	June 26, 2007

SECTION 3. USE OF CLASSES. The designated classes of positions may be used in any organizational unit of the City deemed proper by the City Manager.

SECTION 4. POSITIONS. The City Council authorizes and directs the City Manager, within the limits of funds budgeted therefor, to appoint employees in such number and in such classes in each department as may be necessary to properly operate the department under the Charter, ordinances and resolutions adopted by the City Council, including, but not limited to, creating additional positions to replace employees who are on disability leave or other leaves of absence.

SECTION 5. APPOINTMENTS AND SALARIES. The City Manager is hereby authorized to appoint, in accordance with the applicable provisions of the Modesto Municipal Code and Personnel Rules and within the limits of funds budgeted therefor, any person to a position in a class for which he is the appointing authority and for which the salary is hereby provided, to designate the definite salary rate or salary step at which such person is appointed, and the salary so designated is hereby fixed as the salary of such employee for the position.

SECTION 6. SPECIAL SALARY RATES. The City Manager is further authorized, subject to budgetary appropriation control by the City Council, to fix the salary range or rate for part-time, hourly or special positions in the Unclassified Service for which the City Manager is the appointing authority and which are not designated herein.

SECTION 7. PART-TIME EMPLOYMENT. Employees appointed to any of the positions referred to herein who, with the approval of the City Manager, regularly work less hours per week than established for their class by rule 13.1 of the Personnel Rules, shall be paid in approximate proportion of the time worked.

SECTION 8. REPEAL. Resolution No. 2005-602 is hereby rescinded effective June 25, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Amended on 4/1/08 by Resolution 2008-169 & 2008-182

CITY OF MODESTO
CLASS RANGE TABLE
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **June 26, 2007**

RANGE	TITLE
2419	
2420	Executive Secretary – City Manager's Office
2421	
2422	Office Supervisor - Personnel
2423	
2424	
2425	Executive Assistant Paralegal
2426	
2427	
2428	
2429	
2430	
2431	Equal Opportunity Analyst Equal Opportunity Officer
2432	
2433	
2434	Senior Auditor
2435	
2436	
2437	Deputy City Attorney I
2438	

Exhibit "A"

RANGE	TITLE
2439	Employee Relations Specialist
2440	
2441	Deputy City Attorney II
2442	
2443	Senior Deputy City Attorney I
2444	Risk Manager
2445 - 2448	
2449	Senior Deputy City Attorney II
2450	
2451	
2452	City Engineer Deputy Chief Information Officer Deputy Director – Cultural and Enterprise Services Deputy Director of Finance Deputy Director of Personnel Deputy Director of Public Works – Engineering Deputy Director of Public Works – Operations Deputy Director – Recreation and Neighborhoods
2453	
2454	
2455	Assistant City Attorney

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08
EFFECTIVE June 26, 2007

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED

HOURLY 5.50%

Range	1	2	3	4	5	6	7	8	9
2419	20.9969	21.5218	22.0598	22.6113	23.1766	23.7560	24.3499	24.9586	25.5826
2420	21.5218	22.0598	22.6113	23.1766	23.7560	24.3499	24.9586	25.5826	26.2222
2421	22.0598	22.6113	23.1766	23.7560	24.3499	24.9586	25.5826	26.2222	26.8778
2422	22.6113	23.1766	23.7560	24.3499	24.9586	25.5826	26.2222	26.8778	27.5497
2423	23.1766	23.7560	24.3499	24.9586	25.5826	26.2222	26.8778	27.5497	28.2384
2424	23.7560	24.3499	24.9586	25.5826	26.2222	26.8778	27.5497	28.2384	28.9444
2425	24.3499	24.9586	25.5826	26.2222	26.8778	27.5497	28.2384	28.9444	29.6680
2426	24.9586	25.5826	26.2222	26.8778	27.5497	28.2384	28.9444	29.6680	30.4097
2427	25.5826	26.2222	26.8778	27.5497	28.2384	28.9444	29.6680	30.4097	31.1699
2428	26.2222	26.8778	27.5497	28.2384	28.9444	29.6680	30.4097	31.1699	31.9491
2429	26.8778	27.5497	28.2384	28.9444	29.6680	30.4097	31.1699	31.9491	32.7478
2430	27.5497	28.2384	28.9444	29.6680	30.4097	31.1699	31.9491	32.7478	33.5665
2431	28.2384	28.9444	29.6680	30.4097	31.1699	31.9491	32.7478	33.5665	34.4057
2432	28.9444	29.6680	30.4097	31.1699	31.9491	32.7478	33.5665	34.4057	35.2658

BIWEEKLY

	1	2	3	4	5	6	7	8	9
2419	1,679.75	1,721.74	1,764.78	1,808.90	1,854.13	1,900.48	1,947.99	1,996.69	2,046.61
2420	1,721.74	1,764.78	1,808.90	1,854.13	1,900.48	1,947.99	1,996.69	2,046.61	2,097.78
2421	1,764.78	1,808.90	1,854.13	1,900.48	1,947.99	1,996.69	2,046.61	2,097.78	2,150.22
2422	1,808.90	1,854.13	1,900.48	1,947.99	1,996.69	2,046.61	2,097.78	2,150.22	2,203.98
[illegible]23	1,854.13	1,900.48	1,947.99	1,996.69	2,046.61	2,097.78	2,150.22	2,203.98	2,259.07
[illegible]4	1,900.48	1,947.99	1,996.69	2,046.61	2,097.78	2,150.22	2,203.98	2,259.07	2,315.55
2425	1,947.99	1,996.69	2,046.61	2,097.78	2,150.22	2,203.98	2,259.07	2,315.55	2,373.44
2426	1,996.69	2,046.61	2,097.78	2,150.22	2,203.98	2,259.07	2,315.55	2,373.44	2,432.78
2427	2,046.61	2,097.78	2,150.22	2,203.98	2,259.07	2,315.55	2,373.44	2,432.78	2,493.59
2428	2,097.78	2,150.22	2,203.98	2,259.07	2,315.55	2,373.44	2,432.78	2,493.59	2,555.93
2429	2,150.22	2,203.98	2,259.07	2,315.55	2,373.44	2,432.78	2,493.59	2,555.93	2,619.82
2430	2,203.98	2,259.07	2,315.55	2,373.44	2,432.78	2,493.59	2,555.93	2,619.82	2,685.32
2431	2,259.07	2,315.55	2,373.44	2,432.78	2,493.59	2,555.93	2,619.82	2,685.32	2,752.46
2432	2,315.55	2,373.44	2,432.78	2,493.59	2,555.93	2,619.82	2,685.32	2,752.46	2,821.26

MONTHLY

	1	2	3	4	5	6	7	8	9
2419	3,653.46	3,744.78	3,838.40	3,934.36	4,032.73	4,133.54	4,236.88	4,342.80	4,451.38
2420	3,744.78	3,838.40	3,934.36	4,032.73	4,133.54	4,236.88	4,342.80	4,451.38	4,562.67
2421	3,838.40	3,934.36	4,032.73	4,133.54	4,236.88	4,342.80	4,451.38	4,562.67	4,676.73
2422	3,934.36	4,032.73	4,133.54	4,236.88	4,342.80	4,451.38	4,562.67	4,676.73	4,793.66
2423	4,032.73	4,133.54	4,236.88	4,342.80	4,451.38	4,562.67	4,676.73	4,793.66	4,913.48
2424	4,133.54	4,236.88	4,342.80	4,451.38	4,562.67	4,676.73	4,793.66	4,913.48	5,036.32
2425	4,236.88	4,342.80	4,451.38	4,562.67	4,676.73	4,793.66	4,913.48	5,036.32	5,162.23
2426	4,342.80	4,451.38	4,562.67	4,676.73	4,793.66	4,913.48	5,036.32	5,162.23	5,291.30
2427	4,451.38	4,562.67	4,676.73	4,793.66	4,913.48	5,036.32	5,162.23	5,291.30	5,423.56
2428	4,562.67	4,676.73	4,793.66	4,913.48	5,036.32	5,162.23	5,291.30	5,423.56	5,559.15
2429	4,676.73	4,793.66	4,913.48	5,036.32	5,162.23	5,291.30	5,423.56	5,559.15	5,698.11
2430	4,793.66	4,913.48	5,036.32	5,162.23	5,291.30	5,423.56	5,559.15	5,698.11	5,840.57
[illegible]31	4,913.48	5,036.32	5,162.23	5,291.30	5,423.56	5,559.15	5,698.11	5,840.57	5,986.60
[illegible]32	5,036.32	5,162.23	5,291.30	5,423.56	5,559.15	5,698.11	5,840.57	5,986.60	6,136.24

Exhibit "B"

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08
EFFECTIVE June 26, 2007

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED

HOURLY 5.50%

Range	1	2	3	4	5	6	7	8	9
2433	29.6680	30.4097	31.1699	31.9491	32.7478	33.5665	34.4057	35.2658	36.1474
2434	30.4097	31.1699	31.9491	32.7478	33.5665	34.4057	35.2658	36.1474	37.0511
2435	31.1699	31.9491	32.7478	33.5665	34.4057	35.2658	36.1474	37.0511	37.9774
2436	31.9491	32.7478	33.5665	34.4057	35.2658	36.1474	37.0511	37.9774	38.9268
2437	32.7478	33.5665	34.4057	35.2658	36.1474	37.0511	37.9774	38.9268	39.9000
2438	33.5665	34.4057	35.2658	36.1474	37.0511	37.9774	38.9268	39.9000	40.8975
2439	34.4057	35.2658	36.1474	37.0511	37.9774	38.9268	39.9000	40.8975	41.9199
2440	35.2658	36.1474	37.0511	37.9774	38.9268	39.9000	40.8975	41.9199	42.9679
2441	36.1474	37.0511	37.9774	38.9268	39.9000	40.8975	41.9199	42.9679	44.0421
2442	37.0511	37.9774	38.9268	39.9000	40.8975	41.9199	42.9679	44.0421	45.1432
2443	37.9774	38.9268	39.9000	40.8975	41.9199	42.9679	44.0421	45.1432	46.2718
2444	38.9268	39.9000	40.8975	41.9199	42.9679	44.0421	45.1432	46.2718	47.4286
2445	39.9000	40.8975	41.9199	42.9679	44.0421	45.1432	46.2718	47.4286	48.6143
2446	40.8975	41.9199	42.9679	44.0421	45.1432	46.2718	47.4286	48.6143	49.8297

BIWEEKLY

	1	2	3	4	5	6	7	8	9
2433	2,373.44	2,432.78	2,493.59	2,555.93	2,619.82	2,685.32	2,752.46	2,821.26	2,891.79
2434	2,432.78	2,493.59	2,555.93	2,619.82	2,685.32	2,752.46	2,821.26	2,891.79	2,964.09
2435	2,493.59	2,555.93	2,619.82	2,685.32	2,752.46	2,821.26	2,891.79	2,964.09	3,038.19
2436	2,555.93	2,619.82	2,685.32	2,752.46	2,821.26	2,891.79	2,964.09	3,038.19	3,114.14
2437	2,619.82	2,685.32	2,752.46	2,821.26	2,891.79	2,964.09	3,038.19	3,114.14	3,192.0
8	2,685.32	2,752.46	2,821.26	2,891.79	2,964.09	3,038.19	3,114.14	3,192.00	3,271.8
2439	2,752.46	2,821.26	2,891.79	2,964.09	3,038.19	3,114.14	3,192.00	3,271.80	3,353.5
2440	2,821.26	2,891.79	2,964.09	3,038.19	3,114.14	3,192.00	3,271.80	3,353.59	3,437.43
2441	2,891.79	2,964.09	3,038.19	3,114.14	3,192.00	3,271.80	3,353.59	3,437.43	3,523.37
2442	2,964.09	3,038.19	3,114.14	3,192.00	3,271.80	3,353.59	3,437.43	3,523.37	3,611.46
2443	3,038.19	3,114.14	3,192.00	3,271.80	3,353.59	3,437.43	3,523.37	3,611.46	3,701.74
2444	3,114.14	3,192.00	3,271.80	3,353.59	3,437.43	3,523.37	3,611.46	3,701.74	3,794.29
2445	3,192.00	3,271.80	3,353.59	3,437.43	3,523.37	3,611.46	3,701.74	3,794.29	3,889.14
2446	3,271.80	3,353.59	3,437.43	3,523.37	3,611.46	3,701.74	3,794.29	3,889.14	3,986.38

MONTHLY

	1	2	3	4	5	6	7	8	9
2433	5,162.23	5,291.30	5,423.56	5,559.15	5,698.11	5,840.57	5,986.60	6,136.24	6,289.64
2434	5,291.30	5,423.56	5,559.15	5,698.11	5,840.57	5,986.60	6,136.24	6,289.64	6,446.90
2435	5,423.56	5,559.15	5,698.11	5,840.57	5,986.60	6,136.24	6,289.64	6,446.90	6,608.06
2436	5,559.15	5,698.11	5,840.57	5,986.60	6,136.24	6,289.64	6,446.90	6,608.06	6,773.25
2437	5,698.11	5,840.57	5,986.60	6,136.24	6,289.64	6,446.90	6,608.06	6,773.25	6,942.60
2438	5,840.57	5,986.60	6,136.24	6,289.64	6,446.90	6,608.06	6,773.25	6,942.60	7,116.17
2439	5,986.60	6,136.24	6,289.64	6,446.90	6,608.06	6,773.25	6,942.60	7,116.17	7,294.06
2440	6,136.24	6,289.64	6,446.90	6,608.06	6,773.25	6,942.60	7,116.17	7,294.06	7,476.41
2441	6,289.64	6,446.90	6,608.06	6,773.25	6,942.60	7,116.17	7,294.06	7,476.41	7,663.33
2442	6,446.90	6,608.06	6,773.25	6,942.60	7,116.17	7,294.06	7,476.41	7,663.33	7,854.93
2443	6,608.06	6,773.25	6,942.60	7,116.17	7,294.06	7,476.41	7,663.33	7,854.93	8,051.28
2444	6,773.25	6,942.60	7,116.17	7,294.06	7,476.41	7,663.33	7,854.93	8,051.28	8,252.5
15	6,942.60	7,116.17	7,294.06	7,476.41	7,663.33	7,854.93	8,051.28	8,252.58	8,458.8
46	7,116.17	7,294.06	7,476.41	7,663.33	7,854.93	8,051.28	8,252.58	8,458.88	8,670.3

Exhibit "B"

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08
EFFECTIVE June 26, 2007

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED

JRLY 5.50%

Range	1	2	3	4	5	6	7	8	9
2447	41.9199	42.9679	44.0421	45.1432	46.2718	47.4286	48.6143	49.8297	51.0754
2448	42.9679	44.0421	45.1432	46.2718	47.4286	48.6143	49.8297	51.0754	52.3523
2449	44.0421	45.1432	46.2718	47.4286	48.6143	49.8297	51.0754	52.3523	53.6611
2450	45.1432	46.2718	47.4286	48.6143	49.8297	51.0754	52.3523	53.6611	55.0026
2451	46.2718	47.4286	48.6143	49.8297	51.0754	52.3523	53.6611	55.0026	56.3777
2452	47.4286	48.6143	49.8297	51.0754	52.3523	53.6611	55.0026	56.3777	57.7871
2453	48.6143	49.8297	51.0754	52.3523	53.6611	55.0026	56.3777	57.7871	59.2318
2454	49.8297	51.0754	52.3523	53.6611	55.0026	56.3777	57.7871	59.2318	60.7126
2455	51.0754	52.3523	53.6611	55.0026	56.3777	57.7871	59.2318	60.7126	62.2304
2456	52.3523	53.6611	55.0026	56.3777	57.7871	59.2318	60.7126	62.2304	63.7862
2457	53.6611	55.0026	56.3777	57.7871	59.2318	60.7126	62.2304	63.7862	65.3809
2458	55.0026	56.3777	57.7871	59.2318	60.7126	62.2304	63.7862	65.3809	67.0154
2459	56.3777	57.7871	59.2318	60.7126	62.2304	63.7862	65.3809	67.0154	68.6908
2460	57.7871	59.2318	60.7126	62.2304	63.7862	65.3809	67.0154	68.6908	70.4081

BIWEEKLY

	1	2	3	4	5	6	7	8	9
2447	3,353.59	3,437.43	3,523.37	3,611.46	3,701.74	3,794.29	3,889.14	3,986.38	4,086.03
2448	3,437.43	3,523.37	3,611.46	3,701.74	3,794.29	3,889.14	3,986.38	4,086.03	4,188.18
2449	3,523.37	3,611.46	3,701.74	3,794.29	3,889.14	3,986.38	4,086.03	4,188.18	4,292.89
2450	3,611.46	3,701.74	3,794.29	3,889.14	3,986.38	4,086.03	4,188.18	4,292.89	4,400.21
2451	3,701.74	3,794.29	3,889.14	3,986.38	4,086.03	4,188.18	4,292.89	4,400.21	4,510.22
2	3,794.29	3,889.14	3,986.38	4,086.03	4,188.18	4,292.89	4,400.21	4,510.22	4,622.97
2453	3,889.14	3,986.38	4,086.03	4,188.18	4,292.89	4,400.21	4,510.22	4,622.97	4,738.54
2454	3,986.38	4,086.03	4,188.18	4,292.89	4,400.21	4,510.22	4,622.97	4,738.54	4,857.01
2455	4,086.03	4,188.18	4,292.89	4,400.21	4,510.22	4,622.97	4,738.54	4,857.01	4,978.43
2456	4,188.18	4,292.89	4,400.21	4,510.22	4,622.97	4,738.54	4,857.01	4,978.43	5,102.90
2457	4,292.89	4,400.21	4,510.22	4,622.97	4,738.54	4,857.01	4,978.43	5,102.90	5,230.47
2458	4,400.21	4,510.22	4,622.97	4,738.54	4,857.01	4,978.43	5,102.90	5,230.47	5,361.23
2459	4,510.22	4,622.97	4,738.54	4,857.01	4,978.43	5,102.90	5,230.47	5,361.23	5,495.26
2460	4,622.97	4,738.54	4,857.01	4,978.43	5,102.90	5,230.47	5,361.23	5,495.26	5,632.65

MONTHLY

	1	2	3	4	5	6	7	8	9
2447	7,294.06	7,476.41	7,663.33	7,854.93	8,051.28	8,252.58	8,458.88	8,670.38	8,887.12
2448	7,476.41	7,663.33	7,854.93	8,051.28	8,252.58	8,458.88	8,670.38	8,887.12	9,109.29
2449	7,663.33	7,854.93	8,051.28	8,252.58	8,458.88	8,670.38	8,887.12	9,109.29	9,337.04
2450	7,854.93	8,051.28	8,252.58	8,458.88	8,670.38	8,887.12	9,109.29	9,337.04	9,570.46
2451	8,051.28	8,252.58	8,458.88	8,670.38	8,887.12	9,109.29	9,337.04	9,570.46	9,809.73
2452	8,252.58	8,458.88	8,670.38	8,887.12	9,109.29	9,337.04	9,570.46	9,809.73	10,054.96
2453	8,458.88	8,670.38	8,887.12	9,109.29	9,337.04	9,570.46	9,809.73	10,054.96	10,306.32
2454	8,670.38	8,887.12	9,109.29	9,337.04	9,570.46	9,809.73	10,054.96	10,306.32	10,564.00
2455	8,887.12	9,109.29	9,337.04	9,570.46	9,809.73	10,054.96	10,306.32	10,564.00	10,828.09
2456	9,109.29	9,337.04	9,570.46	9,809.73	10,054.96	10,306.32	10,564.00	10,828.09	11,098.81
2457	9,337.04	9,570.46	9,809.73	10,054.96	10,306.32	10,564.00	10,828.09	11,098.81	11,376.27
2458	9,570.46	9,809.73	10,054.96	10,306.32	10,564.00	10,828.09	11,098.81	11,376.27	11,660.68
59	9,809.73	10,054.96	10,306.32	10,564.00	10,828.09	11,098.81	11,376.27	11,660.68	11,952.19
60	10,054.96	10,306.32	10,564.00	10,828.09	11,098.81	11,376.27	11,660.68	11,952.19	12,251.01

Exhibit "B"

CITY OF MODESTO
CLASS RANGE TABLE
FIRE MANAGEMENT CLASSES
Effective **June 26, 2007**

RANGE	TITLE
512	
513	
514	
515	
516	
517	Fire Division Chief
812	Fire Battalion Chief (112 hrs)
1812	Fire Battalion Chief (80 hrs)

Exhibit "C"

CITY OF MODESTO

SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08

Effective June 26, 2007

SCHEDULE - E

MANAGEMENT/CONFIDENTIAL FIRE - 80 hours

DIVISION CHIEF 5.50%

Range	1	2	3	4	5	6	7	8	9
HOURLY									
515	44.3140	45.4219	46.5574	47.7213	48.9143	50.1372	51.3906	52.6754	53.9923
516	45.4219	46.5574	47.7213	48.9143	50.1372	51.3906	52.6754	53.9923	55.3421
517	46.5574	47.7213	48.9143	50.1372	51.3906	52.6754	53.9923	55.3421	56.7257
518	47.7213	48.9143	50.1372	51.3906	52.6754	53.9923	55.3421	56.7257	58.1438
519	48.9143	50.1372	51.3906	52.6754	53.9923	55.3421	56.7257	58.1438	59.5974
520	50.1372	51.3906	52.6754	53.9923	55.3421	56.7257	58.1438	59.5974	61.0873
521	51.3906	52.6754	53.9923	55.3421	56.7257	58.1438	59.5974	61.0873	62.6145
522	52.6754	53.9923	55.3421	56.7257	58.1438	59.5974	61.0873	62.6145	64.1799
523	53.9923	55.3421	56.7257	58.1438	59.5974	61.0873	62.6145	64.1799	65.7844
524	55.3421	56.7257	58.1438	59.5974	61.0873	62.6145	64.1799	65.7844	67.4290
525	56.7257	58.1438	59.5974	61.0873	62.6145	64.1799	65.7844	67.4290	69.1147
526	58.1438	59.5974	61.0873	62.6145	64.1799	65.7844	67.4290	69.1147	70.8426
527	59.5974	61.0873	62.6145	64.1799	65.7844	67.4290	69.1147	70.8426	72.6137
528	61.0873	62.6145	64.1799	65.7844	67.4290	69.1147	70.8426	72.6137	74.4290
B-WEEKLY									
	1	2	3	4	5	6	7	8	9
515	3,545.12	3,633.75	3,724.59	3,817.70	3,913.14	4,010.98	4,111.25	4,214.03	4,319.38
516	3,633.75	3,724.59	3,817.70	3,913.14	4,010.98	4,111.25	4,214.03	4,319.38	4,427.37
517	3,724.59	3,817.70	3,913.14	4,010.98	4,111.25	4,214.03	4,319.38	4,427.37	4,538.06
18	3,817.70	3,913.14	4,010.98	4,111.25	4,214.03	4,319.38	4,427.37	4,538.06	4,651.50
519	3,913.14	4,010.98	4,111.25	4,214.03	4,319.38	4,427.37	4,538.06	4,651.50	4,767.79
520	4,010.98	4,111.25	4,214.03	4,319.38	4,427.37	4,538.06	4,651.50	4,767.79	4,886.98
521	4,111.25	4,214.03	4,319.38	4,427.37	4,538.06	4,651.50	4,767.79	4,886.98	5,009.16
522	4,214.03	4,319.38	4,427.37	4,538.06	4,651.50	4,767.79	4,886.98	5,009.16	5,134.39
523	4,319.38	4,427.37	4,538.06	4,651.50	4,767.79	4,886.98	5,009.16	5,134.39	5,262.75
524	4,427.37	4,538.06	4,651.50	4,767.79	4,886.98	5,009.16	5,134.39	5,262.75	5,394.32
525	4,538.06	4,651.50	4,767.79	4,886.98	5,009.16	5,134.39	5,262.75	5,394.32	5,529.18
526	4,651.50	4,767.79	4,886.98	5,009.16	5,134.39	5,262.75	5,394.32	5,529.18	5,667.41
527	4,767.79	4,886.98	5,009.16	5,134.39	5,262.75	5,394.32	5,529.18	5,667.41	5,809.10
528	4,886.98	5,009.16	5,134.39	5,262.75	5,394.32	5,529.18	5,667.41	5,809.10	5,954.32
MONTHLY									
	1	2	3	4	5	6	7	8	9
515	7,710.64	7,903.41	8,100.98	8,303.50	8,511.08	8,723.88	8,941.97	9,165.52	9,394.65
516	7,903.41	8,100.98	8,303.50	8,511.08	8,723.88	8,941.97	9,165.52	9,394.65	9,629.53
517	8,100.98	8,303.50	8,511.08	8,723.88	8,941.97	9,165.52	9,394.65	9,629.53	9,870.28
518	8,303.50	8,511.08	8,723.88	8,941.97	9,165.52	9,394.65	9,629.53	9,870.28	10,117.01
519	8,511.08	8,723.88	8,941.97	9,165.52	9,394.65	9,629.53	9,870.28	10,117.01	10,369.94
520	8,723.88	8,941.97	9,165.52	9,394.65	9,629.53	9,870.28	10,117.01	10,369.94	10,629.18
521	8,941.97	9,165.52	9,394.65	9,629.53	9,870.28	10,117.01	10,369.94	10,629.18	10,894.92
522	9,165.52	9,394.65	9,629.53	9,870.28	10,117.01	10,369.94	10,629.18	10,894.92	11,167.30
523	9,394.65	9,629.53	9,870.28	10,117.01	10,369.94	10,629.18	10,894.92	11,167.30	11,446.48
524	9,629.53	9,870.28	10,117.01	10,369.94	10,629.18	10,894.92	11,167.30	11,446.48	11,732.65
525	9,870.28	10,117.01	10,369.94	10,629.18	10,894.92	11,167.30	11,446.48	11,732.65	12,025.97
526	10,117.01	10,369.94	10,629.18	10,894.92	11,167.30	11,446.48	11,732.65	12,025.97	12,326.62
527	10,369.94	10,629.18	10,894.92	11,167.30	11,446.48	11,732.65	12,025.97	12,326.62	12,634.79
528	10,629.18	10,894.92	11,167.30	11,446.48	11,732.65	12,025.97	12,326.62	12,634.79	12,950.65

Exhibit "D"

CITY OF MODESTO

SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08

Effective June 26, 2007

SCHEDULE - X

FIRE MANAGEMENT - 80 HRS

BATTALION CHIEF 5.50%

Range	1	2	3	4	5	6	7	8	9
HOURLY									
1812	41.8428	42.8889	43.9611	45.0601	46.1866	47.3413	48.5248	49.7379	50.9813
1813	42.8889	43.9611	45.0601	46.1866	47.3413	48.5248	49.7379	50.9813	52.2558
1814	43.9611	45.0601	46.1866	47.3413	48.5248	49.7379	50.9813	52.2558	53.5622
1815	45.0601	46.1866	47.3413	48.5248	49.7379	50.9813	52.2558	53.5622	54.9013
1816	46.1866	47.3413	48.5248	49.7379	50.9813	52.2558	53.5622	54.9013	56.2738
1817	47.3413	48.5248	49.7379	50.9813	52.2558	53.5622	54.9013	56.2738	57.6806
1818	48.5248	49.7379	50.9813	52.2558	53.5622	54.9013	56.2738	57.6806	59.1226
1819	49.7379	50.9813	52.2558	53.5622	54.9013	56.2738	57.6806	59.1226	60.6007
1820	50.9813	52.2558	53.5622	54.9013	56.2738	57.6806	59.1226	60.6007	62.1157
1821	52.2558	53.5622	54.9013	56.2738	57.6806	59.1226	60.6007	62.1157	63.6686
1822	53.5622	54.9013	56.2738	57.6806	59.1226	60.6007	62.1157	63.6686	65.2603
1823	54.9013	56.2738	57.6806	59.1226	60.6007	62.1157	63.6686	65.2603	66.8918
1824	56.2738	57.6806	59.1226	60.6007	62.1157	63.6686	65.2603	66.8918	68.5641
BIWEEKLY									
	1	2	3	4	5	6	7	8	9
1812	3,347.42	3,431.11	3,516.89	3,604.81	3,694.93	3,787.30	3,881.98	3,979.03	4,078.50
1813	3,431.11	3,516.89	3,604.81	3,694.93	3,787.30	3,881.98	3,979.03	4,078.50	4,180.46
1814	3,516.89	3,604.81	3,694.93	3,787.30	3,881.98	3,979.03	4,078.50	4,180.46	4,284.98
1815	3,604.81	3,694.93	3,787.30	3,881.98	3,979.03	4,078.50	4,180.46	4,284.98	4,392.10
816	3,694.93	3,787.30	3,881.98	3,979.03	4,078.50	4,180.46	4,284.98	4,392.10	4,501.90
1817	3,787.30	3,881.98	3,979.03	4,078.50	4,180.46	4,284.98	4,392.10	4,501.90	4,614.45
1818	3,881.98	3,979.03	4,078.50	4,180.46	4,284.98	4,392.10	4,501.90	4,614.45	4,729.81
1819	3,979.03	4,078.50	4,180.46	4,284.98	4,392.10	4,501.90	4,614.45	4,729.81	4,848.06
1820	4,078.50	4,180.46	4,284.98	4,392.10	4,501.90	4,614.45	4,729.81	4,848.06	4,969.26
1821	4,180.46	4,284.98	4,392.10	4,501.90	4,614.45	4,729.81	4,848.06	4,969.26	5,093.49
1822	4,284.98	4,392.10	4,501.90	4,614.45	4,729.81	4,848.06	4,969.26	5,093.49	5,220.82
1823	4,392.10	4,501.90	4,614.45	4,729.81	4,848.06	4,969.26	5,093.49	5,220.82	5,351.34
1824	4,501.90	4,614.45	4,729.81	4,848.06	4,969.26	5,093.49	5,220.82	5,351.34	5,485.13
MONTHLY									
	1	2	3	4	5	6	7	8	9
1812	7,280.64	7,462.66	7,649.24	7,840.46	8,036.47	8,237.38	8,443.31	8,654.39	8,870.74
1813	7,462.66	7,649.24	7,840.46	8,036.47	8,237.38	8,443.31	8,654.39	8,870.74	9,092.50
1814	7,649.24	7,840.46	8,036.47	8,237.38	8,443.31	8,654.39	8,870.74	9,092.50	9,319.83
1815	7,840.46	8,036.47	8,237.38	8,443.31	8,654.39	8,870.74	9,092.50	9,319.83	9,552.82
1816	8,036.47	8,237.38	8,443.31	8,654.39	8,870.74	9,092.50	9,319.83	9,552.82	9,791.63
1817	8,237.38	8,443.31	8,654.39	8,870.74	9,092.50	9,319.83	9,552.82	9,791.63	10,036.43
1818	8,443.31	8,654.39	8,870.74	9,092.50	9,319.83	9,552.82	9,791.63	10,036.43	10,287.34
1819	8,654.39	8,870.74	9,092.50	9,319.83	9,552.82	9,791.63	10,036.43	10,287.34	10,544.53
1820	8,870.74	9,092.50	9,319.83	9,552.82	9,791.63	10,036.43	10,287.34	10,544.53	10,808.14
1821	9,092.50	9,319.83	9,552.82	9,791.63	10,036.43	10,287.34	10,544.53	10,808.14	11,078.34
1822	9,319.83	9,552.82	9,791.63	10,036.43	10,287.34	10,544.53	10,808.14	11,078.34	11,355.28
1823	9,552.82	9,791.63	10,036.43	10,287.34	10,544.53	10,808.14	11,078.34	11,355.28	11,639.16
1824	9,791.63	10,036.43	10,287.34	10,544.53	10,808.14	11,078.34	11,355.28	11,639.16	11,930.16

Exhibit "E"

CITY OF MODESTO

SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08

Effective June 26, 2007

SCHEDULE - X

FIRE MANAGEMENT - 80 HRS

)ATTALION CHIEF 5.50%

Range	1	2	3	4	5	6	7	8	9
HOURLY									
1825	57.6806	59.1226	60.6007	62.1157	63.6686	65.2603	66.8918	68.5641	70.2782
1826	59.1226	60.6007	62.1157	63.6686	65.2603	66.8918	68.5641	70.2782	72.0352
1827	60.6007	62.1157	63.6686	65.2603	66.8918	68.5641	70.2782	72.0352	73.8361
1828	62.1157	63.6686	65.2603	66.8918	68.5641	70.2782	72.0352	73.8361	75.6820
BIWEEKLY									
	1	2	3	4	5	6	7	8	9
1825	4,614.45	4,729.81	4,848.06	4,969.26	5,093.49	5,220.82	5,351.34	5,485.13	5,622.26
1826	4,729.81	4,848.06	4,969.26	5,093.49	5,220.82	5,351.34	5,485.13	5,622.26	5,762.82
1827	4,848.06	4,969.26	5,093.49	5,220.82	5,351.34	5,485.13	5,622.26	5,762.82	5,906.89
1828	4,969.26	5,093.49	5,220.82	5,351.34	5,485.13	5,622.26	5,762.82	5,906.89	6,054.56
MONTHLY									
	1	2	3	4	5	6	7	8	9
1825	10,036.43	10,287.34	10,544.53	10,808.14	11,078.34	11,355.28	11,639.16	11,930.16	12,228.42
1826	10,287.34	10,544.53	10,808.14	11,078.34	11,355.28	11,639.16	11,930.16	12,228.42	12,534.13
1827	10,544.53	10,808.14	11,078.34	11,355.28	11,639.16	11,930.16	12,228.42	12,534.13	12,847.49
1828	10,808.14	11,078.34	11,355.28	11,639.16	11,930.16	12,228.42	12,534.13	12,847.49	13,168.67

Exhibit "E"

CITY OF MODESTO

SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08

Effective June 26, 2007

SCHEDULE - Y

FIRE MANAGEMENT - 112 HRS

BATTALION CHIEF 5.50%

Range	1	2	3	4	5	6	7	8	9
HOURLY									
812	29.8879	30.6351	31.4010	32.1860	32.9907	33.8155	34.6609	35.5274	36.4156
813	30.6351	31.4010	32.1860	32.9907	33.8155	34.6609	35.5274	36.4156	37.3260
814	31.4010	32.1860	32.9907	33.8155	34.6609	35.5274	36.4156	37.3260	38.2592
815	32.1860	32.9907	33.8155	34.6609	35.5274	36.4156	37.3260	38.2592	39.2157
816	32.9907	33.8155	34.6609	35.5274	36.4156	37.3260	38.2592	39.2157	40.1961
817	33.8155	34.6609	35.5274	36.4156	37.3260	38.2592	39.2157	40.1961	41.2010
818	34.6609	35.5274	36.4156	37.3260	38.2592	39.2157	40.1961	41.2010	42.2310
819	35.5274	36.4156	37.3260	38.2592	39.2157	40.1961	41.2010	42.2310	43.2868
820	36.4156	37.3260	38.2592	39.2157	40.1961	41.2010	42.2310	43.2868	44.3690
821	37.3260	38.2592	39.2157	40.1961	41.2010	42.2310	43.2868	44.3690	45.4782
822	38.2592	39.2157	40.1961	41.2010	42.2310	43.2868	44.3690	45.4782	46.6152
823	39.2157	40.1961	41.2010	42.2310	43.2868	44.3690	45.4782	46.6152	47.7806
824	40.1961	41.2010	42.2310	43.2868	44.3690	45.4782	46.6152	47.7806	48.9751
BIWEEKLY									
	1	2	3	4	5	6	7	8	9
812	3,347.44	3,431.13	3,516.91	3,604.83	3,694.96	3,787.34	3,882.02	3,979.07	4,078.55
813	3,431.13	3,516.91	3,604.83	3,694.96	3,787.34	3,882.02	3,979.07	4,078.55	4,180.51
814	3,516.91	3,604.83	3,694.96	3,787.34	3,882.02	3,979.07	4,078.55	4,180.51	4,285.03
815	3,604.83	3,694.96	3,787.34	3,882.02	3,979.07	4,078.55	4,180.51	4,285.03	4,392.16
816	3,694.96	3,787.34	3,882.02	3,979.07	4,078.55	4,180.51	4,285.03	4,392.16	4,501.96
817	3,787.34	3,882.02	3,979.07	4,078.55	4,180.51	4,285.03	4,392.16	4,501.96	4,614.51
818	3,882.02	3,979.07	4,078.55	4,180.51	4,285.03	4,392.16	4,501.96	4,614.51	4,729.87
819	3,979.07	4,078.55	4,180.51	4,285.03	4,392.16	4,501.96	4,614.51	4,729.87	4,848.12
820	4,078.55	4,180.51	4,285.03	4,392.16	4,501.96	4,614.51	4,729.87	4,848.12	4,969.33
821	4,180.51	4,285.03	4,392.16	4,501.96	4,614.51	4,729.87	4,848.12	4,969.33	5,093.56
822	4,285.03	4,392.16	4,501.96	4,614.51	4,729.87	4,848.12	4,969.33	5,093.56	5,220.90
823	4,392.16	4,501.96	4,614.51	4,729.87	4,848.12	4,969.33	5,093.56	5,220.90	5,351.43
824	4,501.96	4,614.51	4,729.87	4,848.12	4,969.33	5,093.56	5,220.90	5,351.43	5,485.21
MONTHLY									
	1	2	3	4	5	6	7	8	9
812	7,280.68	7,462.71	7,649.28	7,840.51	8,036.54	8,237.46	8,443.39	8,654.48	8,870.85
813	7,462.71	7,649.28	7,840.51	8,036.54	8,237.46	8,443.39	8,654.48	8,870.85	9,092.61
814	7,649.28	7,840.51	8,036.54	8,237.46	8,443.39	8,654.48	8,870.85	9,092.61	9,319.94
815	7,840.51	8,036.54	8,237.46	8,443.39	8,654.48	8,870.85	9,092.61	9,319.94	9,552.95
816	8,036.54	8,237.46	8,443.39	8,654.48	8,870.85	9,092.61	9,319.94	9,552.95	9,791.76
817	8,237.46	8,443.39	8,654.48	8,870.85	9,092.61	9,319.94	9,552.95	9,791.76	10,036.56
818	8,443.39	8,654.48	8,870.85	9,092.61	9,319.94	9,552.95	9,791.76	10,036.56	10,287.47
819	8,654.48	8,870.85	9,092.61	9,319.94	9,552.95	9,791.76	10,036.56	10,287.47	10,544.66
820	8,870.85	9,092.61	9,319.94	9,552.95	9,791.76	10,036.56	10,287.47	10,544.66	10,808.29
821	9,092.61	9,319.94	9,552.95	9,791.76	10,036.56	10,287.47	10,544.66	10,808.29	11,078.49
822	9,319.94	9,552.95	9,791.76	10,036.56	10,287.47	10,544.66	10,808.29	11,078.49	11,355.46
823	9,552.95	9,791.76	10,036.56	10,287.47	10,544.66	10,808.29	11,078.49	11,355.46	11,639.36
824	9,791.76	10,036.56	10,287.47	10,544.66	10,808.29	11,078.49	11,355.46	11,639.36	11,930.33

Exhibit "F"

CITY OF MODESTO

SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08

Effective June 26, 2007

SCHEDULE - Y

FIRE MANAGEMENT - 112 HRS

ATTALION CHIEF 5.50%

Range	1	2	3	4	5	6	7	8	9
HOURLY									
825	41.2010	42.2310	43.2868	44.3690	45.4782	46.6152	47.7806	48.9751	50.1995
826	42.2310	43.2868	44.3690	45.4782	46.6152	47.7806	48.9751	50.1995	51.4545
827	43.2868	44.3690	45.4782	46.6152	47.7806	48.9751	50.1995	51.4545	52.7409
828	44.3690	45.4782	46.6152	47.7806	48.9751	50.1995	51.4545	52.7409	54.0594
B-WEEKLY									
	1	2	3	4	5	6	7	8	9
825	4,614.51	4,729.87	4,848.12	4,969.33	5,093.56	5,220.90	5,351.43	5,485.21	5,622.34
826	4,729.87	4,848.12	4,969.33	5,093.56	5,220.90	5,351.43	5,485.21	5,622.34	5,762.90
827	4,848.12	4,969.33	5,093.56	5,220.90	5,351.43	5,485.21	5,622.34	5,762.90	5,906.98
828	4,969.33	5,093.56	5,220.90	5,351.43	5,485.21	5,622.34	5,762.90	5,906.98	6,054.65
MONTHLY									
	1	2	3	4	5	6	7	8	9
825	10,036.56	10,287.47	10,544.66	10,808.29	11,078.49	11,355.46	11,639.36	11,930.33	12,228.59
826	10,287.47	10,544.66	10,808.29	11,078.49	11,355.46	11,639.36	11,930.33	12,228.59	12,534.31
827	10,544.66	10,808.29	11,078.49	11,355.46	11,639.36	11,930.33	12,228.59	12,534.31	12,847.68
828	10,808.29	11,078.49	11,355.46	11,639.36	11,930.33	12,228.59	12,534.31	12,847.68	13,168.86

Exhibit "F"

CITY OF MODESTO
CLASS RANGE TABLE
POLICE MANAGEMENT CLASSES (Unrepresented)
Effective June 26, 2007

RANGE	TITLE
1612	
1613	
1614	
1615	
1616	
1617	
1618	
1619	
1620	
1622	Police Captain

Exhibit "G"

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08
EFFECTIVE June 26, 2007

SCHEDULE - G
MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED

HOURLY 5.50%

Range	1	2	3	4	5	6	7	8	9
1601	27.8599	28.5564	29.2703	30.0021	30.7522	31.5210	32.3090	33.1167	33.9446
1602	28.5564	29.2703	30.0021	30.7522	31.5210	32.3090	33.1167	33.9446	34.7932
1603	29.2703	30.0021	30.7522	31.5210	32.3090	33.1167	33.9446	34.7932	35.6630
1604	30.0021	30.7522	31.5210	32.3090	33.1167	33.9446	34.7932	35.6630	36.5546
1605	30.7522	31.5210	32.3090	33.1167	33.9446	34.7932	35.6630	36.5546	37.4685
1606	31.5210	32.3090	33.1167	33.9446	34.7932	35.6630	36.5546	37.4685	38.4052
1607	32.3090	33.1167	33.9446	34.7932	35.6630	36.5546	37.4685	38.4052	39.3653
1608	33.1167	33.9446	34.7932	35.6630	36.5546	37.4685	38.4052	39.3653	40.3494
1609	33.9446	34.7932	35.6630	36.5546	37.4685	38.4052	39.3653	40.3494	41.3581
1610	34.7932	35.6630	36.5546	37.4685	38.4052	39.3653	40.3494	41.3581	42.3921
1611	35.6630	36.5546	37.4685	38.4052	39.3653	40.3494	41.3581	42.3921	43.4519
1612	36.5546	37.4685	38.4052	39.3653	40.3494	41.3581	42.3921	43.4519	44.5382
1613	37.4685	38.4052	39.3653	40.3494	41.3581	42.3921	43.4519	44.5382	45.6517
1614	38.4052	39.3653	40.3494	41.3581	42.3921	43.4519	44.5382	45.6517	46.7930

BIWEEKLY

	1	2	3	4	5	6	7	8	9
1601	2,228.79	2,284.51	2,341.62	2,400.17	2,460.18	2,521.68	2,584.72	2,649.34	2,715.57
1602	2,284.51	2,341.62	2,400.17	2,460.18	2,521.68	2,584.72	2,649.34	2,715.57	2,783.46
1603	2,341.62	2,400.17	2,460.18	2,521.68	2,584.72	2,649.34	2,715.57	2,783.46	2,853.04
1604	2,400.17	2,460.18	2,521.68	2,584.72	2,649.34	2,715.57	2,783.46	2,853.04	2,924.37
1605	2,460.18	2,521.68	2,584.72	2,649.34	2,715.57	2,783.46	2,853.04	2,924.37	2,997.48
1606	2,521.68	2,584.72	2,649.34	2,715.57	2,783.46	2,853.04	2,924.37	2,997.48	3,072.42
1607	2,584.72	2,649.34	2,715.57	2,783.46	2,853.04	2,924.37	2,997.48	3,072.42	3,149.22
1608	2,649.34	2,715.57	2,783.46	2,853.04	2,924.37	2,997.48	3,072.42	3,149.22	3,227.95
1609	2,715.57	2,783.46	2,853.04	2,924.37	2,997.48	3,072.42	3,149.22	3,227.95	3,308.65
1610	2,783.46	2,853.04	2,924.37	2,997.48	3,072.42	3,149.22	3,227.95	3,308.65	3,391.37
1611	2,853.04	2,924.37	2,997.48	3,072.42	3,149.22	3,227.95	3,308.65	3,391.37	3,476.15
1612	2,924.37	2,997.48	3,072.42	3,149.22	3,227.95	3,308.65	3,391.37	3,476.15	3,563.06
1613	2,997.48	3,072.42	3,149.22	3,227.95	3,308.65	3,391.37	3,476.15	3,563.06	3,652.14
1614	3,072.42	3,149.22	3,227.95	3,308.65	3,391.37	3,476.15	3,563.06	3,652.14	3,743.44

MONTHLY

	1	2	3	4	5	6	7	8	9
1601	4,847.62	4,968.81	5,093.02	5,220.37	5,350.89	5,484.65	5,621.77	5,762.31	5,906.36
1602	4,968.81	5,093.02	5,220.37	5,350.89	5,484.65	5,621.77	5,762.31	5,906.36	6,054.03
1603	5,093.02	5,220.37	5,350.89	5,484.65	5,621.77	5,762.31	5,906.36	6,054.03	6,205.36
1604	5,220.37	5,350.89	5,484.65	5,621.77	5,762.31	5,906.36	6,054.03	6,205.36	6,360.50
1605	5,350.89	5,484.65	5,621.77	5,762.31	5,906.36	6,054.03	6,205.36	6,360.50	6,519.52
1606	5,484.65	5,621.77	5,762.31	5,906.36	6,054.03	6,205.36	6,360.50	6,519.52	6,682.51
1607	5,621.77	5,762.31	5,906.36	6,054.03	6,205.36	6,360.50	6,519.52	6,682.51	6,849.55
1608	5,762.31	5,906.36	6,054.03	6,205.36	6,360.50	6,519.52	6,682.51	6,849.55	7,020.79
1609	5,906.36	6,054.03	6,205.36	6,360.50	6,519.52	6,682.51	6,849.55	7,020.79	7,196.31
1610	6,054.03	6,205.36	6,360.50	6,519.52	6,682.51	6,849.55	7,020.79	7,196.31	7,376.23
1611	6,205.36	6,360.50	6,519.52	6,682.51	6,849.55	7,020.79	7,196.31	7,376.23	7,560.63
1612	6,360.50	6,519.52	6,682.51	6,849.55	7,020.79	7,196.31	7,376.23	7,560.63	7,749.66
1613	6,519.52	6,682.51	6,849.55	7,020.79	7,196.31	7,376.23	7,560.63	7,749.66	7,943.40
1614	6,682.51	6,849.55	7,020.79	7,196.31	7,376.23	7,560.63	7,749.66	7,943.40	8,141.98

Exhibit "H"

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08
EFFECTIVE June 26, 2007

SCHEDULE - G
MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED

HOURLY 5.50%

Range	1	2	3	4	5	6	7	8	9
1615	39.3653	40.3494	41.3581	42.3921	43.4519	44.5382	45.6517	46.7930	47.9628
1616	40.3494	41.3581	42.3921	43.4519	44.5382	45.6517	46.7930	47.9628	49.1619
1617	41.3581	42.3921	43.4519	44.5382	45.6517	46.7930	47.9628	49.1619	50.3909
1618	42.3921	43.4519	44.5382	45.6517	46.7930	47.9628	49.1619	50.3909	51.6507
1619	43.4519	44.5382	45.6517	46.7930	47.9628	49.1619	50.3909	51.6507	52.9420
1620	44.5382	45.6517	46.7930	47.9628	49.1619	50.3909	51.6507	52.9420	54.2656
1621	45.6517	46.7930	47.9628	49.1619	50.3909	51.6507	52.9420	54.2656	55.6222
1622	46.7930	47.9628	49.1619	50.3909	51.6507	52.9420	54.2656	55.6222	57.0128
1623	47.9628	49.1619	50.3909	51.6507	52.9420	54.2656	55.6222	57.0128	58.4381
1624	49.1619	50.3909	51.6507	52.9420	54.2656	55.6222	57.0128	58.4381	59.8991
1625	50.3909	51.6507	52.9420	54.2656	55.6222	57.0128	58.4381	59.8991	61.3966
1626	51.6507	52.9420	54.2656	55.6222	57.0128	58.4381	59.8991	61.3966	62.9315
1627	52.9420	54.2656	55.6222	57.0128	58.4381	59.8991	61.3966	62.9315	64.5048
1628	54.2656	55.6222	57.0128	58.4381	59.8991	61.3966	62.9315	64.5048	66.1174

BIWEEKLY

	1	2	3	4	5	6	7	8	9
1615	3,149.22	3,227.95	3,308.65	3,391.37	3,476.15	3,563.06	3,652.14	3,743.44	3,837.02
1616	3,227.95	3,308.65	3,391.37	3,476.15	3,563.06	3,652.14	3,743.44	3,837.02	3,932.95
1617	3,308.65	3,391.37	3,476.15	3,563.06	3,652.14	3,743.44	3,837.02	3,932.95	4,031.27
1618	3,391.37	3,476.15	3,563.06	3,652.14	3,743.44	3,837.02	3,932.95	4,031.27	4,132.06
1619	3,476.15	3,563.06	3,652.14	3,743.44	3,837.02	3,932.95	4,031.27	4,132.06	4,235.3
1620	3,563.06	3,652.14	3,743.44	3,837.02	3,932.95	4,031.27	4,132.06	4,235.36	4,341.2
1621	3,652.14	3,743.44	3,837.02	3,932.95	4,031.27	4,132.06	4,235.36	4,341.25	4,449.78
1622	3,743.44	3,837.02	3,932.95	4,031.27	4,132.06	4,235.36	4,341.25	4,449.78	4,561.02
1623	3,837.02	3,932.95	4,031.27	4,132.06	4,235.36	4,341.25	4,449.78	4,561.02	4,675.05
1624	3,932.95	4,031.27	4,132.06	4,235.36	4,341.25	4,449.78	4,561.02	4,675.05	4,791.93
1625	4,031.27	4,132.06	4,235.36	4,341.25	4,449.78	4,561.02	4,675.05	4,791.93	4,911.73
1626	4,132.06	4,235.36	4,341.25	4,449.78	4,561.02	4,675.05	4,791.93	4,911.73	5,034.52
1627	4,235.36	4,341.25	4,449.78	4,561.02	4,675.05	4,791.93	4,911.73	5,034.52	5,160.38
1628	4,341.25	4,449.78	4,561.02	4,675.05	4,791.93	4,911.73	5,034.52	5,160.38	5,289.39

MONTHLY

	1	2	3	4	5	6	7	8	9
1615	6,849.55	7,020.79	7,196.31	7,376.23	7,560.63	7,749.66	7,943.40	8,141.98	8,345.52
1616	7,020.79	7,196.31	7,376.23	7,560.63	7,749.66	7,943.40	8,141.98	8,345.52	8,554.17
1617	7,196.31	7,376.23	7,560.63	7,749.66	7,943.40	8,141.98	8,345.52	8,554.17	8,768.01
1618	7,376.23	7,560.63	7,749.66	7,943.40	8,141.98	8,345.52	8,554.17	8,768.01	8,987.23
1619	7,560.63	7,749.66	7,943.40	8,141.98	8,345.52	8,554.17	8,768.01	8,987.23	9,211.91
1620	7,749.66	7,943.40	8,141.98	8,345.52	8,554.17	8,768.01	8,987.23	9,211.91	9,442.22
1621	7,943.40	8,141.98	8,345.52	8,554.17	8,768.01	8,987.23	9,211.91	9,442.22	9,678.27
1622	8,141.98	8,345.52	8,554.17	8,768.01	8,987.23	9,211.91	9,442.22	9,678.27	9,920.22
1623	8,345.52	8,554.17	8,768.01	8,987.23	9,211.91	9,442.22	9,678.27	9,920.22	10,168.23
1624	8,554.17	8,768.01	8,987.23	9,211.91	9,442.22	9,678.27	9,920.22	10,168.23	10,422.45
1625	8,768.01	8,987.23	9,211.91	9,442.22	9,678.27	9,920.22	10,168.23	10,422.45	10,683.0
1626	8,987.23	9,211.91	9,442.22	9,678.27	9,920.22	10,168.23	10,422.45	10,683.01	10,950.0
1627	9,211.91	9,442.22	9,678.27	9,920.22	10,168.23	10,422.45	10,683.01	10,950.08	11,223.8
1628	9,442.22	9,678.27	9,920.22	10,168.23	10,422.45	10,683.01	10,950.08	11,223.83	11,504.42

Exhibit "H"

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08
EFFECTIVE June 26, 2007

SCHEDULE - G
MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED

HOURLY 5.50%

ange	1	2	3	4	5	6	7	8	9
1629	55.6222	57.0128	58.4381	59.8991	61.3966	62.9315	64.5048	66.1174	67.7703
1630	57.0128	58.4381	59.8991	61.3966	62.9315	64.5048	66.1174	67.7703	69.4646
1631	58.4381	59.8991	61.3966	62.9315	64.5048	66.1174	67.7703	69.4646	71.2012
1632	59.8991	61.3966	62.9315	64.5048	66.1174	67.7703	69.4646	71.2012	72.9812
1633	61.3966	62.9315	64.5048	66.1174	67.7703	69.4646	71.2012	72.9812	74.8057
1634	62.9315	64.5048	66.1174	67.7703	69.4646	71.2012	72.9812	74.8057	76.6758
1635	64.5048	66.1174	67.7703	69.4646	71.2012	72.9812	74.8057	76.6758	78.5927
1636	66.1174	67.7703	69.4646	71.2012	72.9812	74.8057	76.6758	78.5927	80.5575
1637	67.7703	69.4646	71.2012	72.9812	74.8057	76.6758	78.5927	80.5575	82.5714
1638	69.4646	71.2012	72.9812	74.8057	76.6758	78.5927	80.5575	82.5714	84.6357
1639	71.2012	72.9812	74.8057	76.6758	78.5927	80.5575	82.5714	84.6357	86.7516
1640	72.9812	74.8057	76.6758	78.5927	80.5575	82.5714	84.6357	86.7516	88.9204

BIWEEKLY

	1	2	3	4	5	6	7	8	9
1629	4,449.78	4,561.02	4,675.05	4,791.93	4,911.73	5,034.52	5,160.38	5,289.39	5,421.62
1630	4,561.02	4,675.05	4,791.93	4,911.73	5,034.52	5,160.38	5,289.39	5,421.62	5,557.17
1631	4,675.05	4,791.93	4,911.73	5,034.52	5,160.38	5,289.39	5,421.62	5,557.17	5,696.10
1632	4,791.93	4,911.73	5,034.52	5,160.38	5,289.39	5,421.62	5,557.17	5,696.10	5,838.50
1633	4,911.73	5,034.52	5,160.38	5,289.39	5,421.62	5,557.17	5,696.10	5,838.50	5,984.46
1634	5,034.52	5,160.38	5,289.39	5,421.62	5,557.17	5,696.10	5,838.50	5,984.46	6,134.06
35	5,160.38	5,289.39	5,421.62	5,557.17	5,696.10	5,838.50	5,984.46	6,134.06	6,287.42
1636	5,289.39	5,421.62	5,557.17	5,696.10	5,838.50	5,984.46	6,134.06	6,287.42	6,444.60
1637	5,421.62	5,557.17	5,696.10	5,838.50	5,984.46	6,134.06	6,287.42	6,444.60	6,605.71
1638	5,557.17	5,696.10	5,838.50	5,984.46	6,134.06	6,287.42	6,444.60	6,605.71	6,770.86
1639	5,696.10	5,838.50	5,984.46	6,134.06	6,287.42	6,444.60	6,605.71	6,770.86	6,940.13
1640	5,838.50	5,984.46	6,134.06	6,287.42	6,444.60	6,605.71	6,770.86	6,940.13	7,113.63

MONTHLY

	1	2	3	4	5	6	7	8	9
1629	9,678.27	9,920.22	10,168.23	10,422.45	10,683.01	10,950.08	11,223.83	11,504.42	11,792.02
1630	9,920.22	10,168.23	10,422.45	10,683.01	10,950.08	11,223.83	11,504.42	11,792.02	12,086.84
1631	10,168.23	10,422.45	10,683.01	10,950.08	11,223.83	11,504.42	11,792.02	12,086.84	12,389.02
1632	10,422.45	10,683.01	10,950.08	11,223.83	11,504.42	11,792.02	12,086.84	12,389.02	12,698.74
1633	10,683.01	10,950.08	11,223.83	11,504.42	11,792.02	12,086.84	12,389.02	12,698.74	13,016.20
1634	10,950.08	11,223.83	11,504.42	11,792.02	12,086.84	12,389.02	12,698.74	13,016.20	13,341.58
1635	11,223.83	11,504.42	11,792.02	12,086.84	12,389.02	12,698.74	13,016.20	13,341.58	13,675.14
1636	11,504.42	11,792.02	12,086.84	12,389.02	12,698.74	13,016.20	13,341.58	13,675.14	14,017.01
1637	11,792.02	12,086.84	12,389.02	12,698.74	13,016.20	13,341.58	13,675.14	14,017.01	14,367.42
1638	12,086.84	12,389.02	12,698.74	13,016.20	13,341.58	13,675.14	14,017.01	14,367.42	14,726.62
1639	12,389.02	12,698.74	13,016.20	13,341.58	13,675.14	14,017.01	14,367.42	14,726.62	15,094.78
1640	12,698.74	13,016.20	13,341.58	13,675.14	14,017.01	14,367.42	14,726.62	15,094.78	15,472.15

Exhibit "H"

CITY OF MODESTO
CLASS RANGE TABLE
EXECUTIVE MANAGEMENT
Effective **June 26, 2007**

RANGE	TITLE
1410	City Clerk/Auditor
1411 – 1416	
1417	Emergency Dispatch Director
1418 - 1419	
1420	Finance Director Personnel Director
1421	
1422	Chief Information Officer Community Development Director Parks, Recreation, and Neighborhoods Director Public Works Director
1423	
1424	
1425	
1426	
1426	
1427	Deputy City Manager Fire Chief Police Chief
1428	City Attorney
1429 – 1432	
1433	City Manager

Exhibit "I"

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08
EFFECTIVE June 26, 2007

Executive Management

5.50%

	HOURLY		Bi-weekly		Monthly	
05	36.8918	46.1148	2,951.34	3,689.18	6,419.16	8,023.97
1406	37.8141	47.2676	3,025.13	3,781.41	6,579.66	8,224.57
1407	38.7595	48.4494	3,100.76	3,875.95	6,744.15	8,430.19
1408	39.7285	49.6606	3,178.28	3,972.85	6,912.76	8,640.95
1409	40.7217	50.9021	3,257.74	4,072.17	7,085.58	8,856.97
1410	41.7397	52.1746	3,339.18	4,173.97	7,262.72	9,078.38
1411	42.7832	53.4790	3,422.66	4,278.32	7,444.29	9,305.35
1412	43.8528	54.8160	3,508.22	4,385.28	7,630.38	9,537.98
1413	44.9491	56.1864	3,595.93	4,494.91	7,821.15	9,776.43
1414	46.0728	57.5910	3,685.82	4,607.28	8,016.66	10,020.83
1415	47.2246	59.0308	3,777.97	4,722.46	8,217.08	10,271.35
1416	48.4052	60.5065	3,872.42	4,840.52	8,422.51	10,528.13
1417	49.6153	62.0191	3,969.22	4,961.53	8,633.05	10,791.33
1418	50.8557	63.5696	4,068.46	5,085.57	8,848.90	11,061.11
1419	52.1271	65.1589	4,170.17	5,212.71	9,070.12	11,337.64
1420	53.4303	66.7879	4,274.42	5,343.03	9,296.86	11,621.09
1421	54.7661	68.4576	4,381.29	5,476.61	9,529.31	11,911.63
1422	56.1353	70.1691	4,490.82	5,613.53	9,767.53	12,209.43
1423	57.5387	71.9234	4,603.10	5,753.87	10,011.74	12,514.67
1424	58.9772	73.7215	4,718.18	5,897.72	10,262.04	12,827.54
,25	60.4516	75.5645	4,836.13	6,045.16	10,518.58	13,148.22
1426	61.9629	77.4536	4,957.03	6,196.29	10,781.54	13,476.93
1427	63.5120	79.3900	5,080.96	6,351.20	11,051.09	13,813.86
1428	65.0998	81.3748	5,207.98	6,509.98	11,327.36	14,159.21
1429	66.7273	83.4091	5,338.18	6,672.73	11,610.54	14,513.19
1430	68.3955	85.4944	5,471.64	6,839.55	11,900.82	14,876.02
1431	70.1054	87.6318	5,608.43	7,010.54	12,198.34	15,247.92
1432	71.8580	89.8225	5,748.64	7,185.80	12,503.29	15,629.12
1433	73.6545	92.0681	5,892.36	7,365.45	12,815.88	16,019.85
1434	75.4959	94.3699	6,039.67	7,549.59	13,136.28	16,420.36
1435	77.3833	96.7291	6,190.66	7,738.33	13,464.69	16,830.87

Exhibit "J"

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-385

RESOLUTION AMENDING EXHIBITS "A," "B," "C," AND "D" OF RESOLUTION NO. 2005-603 WHICH AMENDED THE CLASS RANGE TABLES FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES, UNREPRESENTED POLICE MANAGEMENT, UNREPRESENTED FIRE MANAGEMENT, AND EXECUTIVES, INCLUDING CHARTER OFFICERS TO ESTABLISH A NEW EFFECTIVE DATE OF JUNE 26, 2007

BE IT RESOLVED by the Council of the City of Modesto that the Class Range Tables for Unrepresented Management and Confidential Non-Sworn Classes, Unrepresented Police Management Classes, Unrepresented Fire Management Classes, and Executive Management Classes, including Charter Officers, adopted by Resolution No. 2005-603, are hereby adopted as amended effective June 26, 2007. Said Class Range Tables are attached hereto and made part hereof as though set forth herein as follows:

- Exhibit "A" entitled "City of Modesto, Class Range Table, Unrepresented Management and Confidential Non-Sworn Classes, Effective June 26, 2007"
- Exhibit "B" entitled "City of Modesto, Class Range Table, Fire Management Classes, Modesto, Effective June 26, 2007"
- Exhibit "C" entitled "City of Modesto, Class Range Table, Executive Management, Effective June 26, 2007"
- Exhibit "D" entitled "City of Modesto, Class Range Table, Police Management Classes (Unrepresented), Effective June 26, 2007"

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 26, 2007.

AMENDED exhibits A & C
on 9-11-13
By Resolution 2013-310

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **June 26, 2007**

RANGE	TITLE
2419	
2420	Executive Secretary – City Manager's Office
2421	
2422	Office Supervisor - Personnel
2423	
2424	
2425	Executive Assistant Paralegal
2426	
2427	
2428	
2429	
2430	
2431	Equal Opportunity Analyst Equal Opportunity Officer
2432	
2433	
2434	Senior Auditor
2435	
2436	
2437	Deputy City Attorney I
2438	

RANGE	TITLE
2439	Employee Relations Specialist
2440	
2441	Deputy City Attorney II
2442	
2443	Senior Deputy City Attorney I
2444	Risk Manager
2445 - 2448	
2449	Senior Deputy City Attorney II
2450	
2451	
2452	City Engineer Deputy Chief Information Officer Deputy Director – Cultural and Enterprise Services Deputy Director of Finance Deputy Director of Personnel Deputy Director of Public Works – Engineering Deputy Director of Public Works – Operations Deputy Director – Recreation and Neighborhoods
2453	
2454	
2455	Assistant City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
FIRE MANAGEMENT CLASSES
Effective **June 26, 2007**

RANGE	TITLE
512	
513	
514	
515	
516	
517	Fire Division Chief
812	Fire Battalion Chief (112 hrs)
1812	Fire Battalion Chief (80 hrs)

Exhibit "B"

CITY OF MODESTO
CLASS RANGE TABLE
EXECUTIVE MANAGEMENT
Effective **June 26, 2007**

RANGE	TITLE
1410	City Clerk/Auditor
1411 – 1416	
1417	Emergency Dispatch Director
1418 - 1419	
1420	Finance Director Personnel Director
1421	
1422	Chief Information Officer Community Development Director Parks, Recreation, and Neighborhoods Director Public Works Director
1423	
1424	
1425	
1426	
1426	
1427	Deputy City Manager Fire Chief Police Chief
1428	City Attorney
1429 – 1432	
1433	City Manager

Exhibit "C"

CITY OF MODESTO
CLASS RANGE TABLE
POLICE MANAGEMENT CLASSES (Unrepresented)
Effective June 26, 2007

RANGE	TITLE
1612	
1613	
1614	
1615	
1616	
1617	
1618	
1619	
1620	
1622	Police Captain

Exhibit "D"

Print

AMENDED on June 2, 2009 By Resolution 2009-333 & 2008-506 9/2/2008

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-386

RESOLUTION GRANTING BENEFIT CHANGES EFFECTIVE JUNE 26, 2007 AND HEALTH BENEFIT INCREASES EFFECTIVE JULY 24, 2007 TO UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES

WHEREAS, the Council of the City of Modesto desires to grant increases in the City's contribution to health, dental, and vision benefits for unrepresented Management and Confidential employees, including Charter Officers and Executives, effective July 24, 2007, as follows: an increase of $55/mo. for those with Family coverage, an increase of $45/mo. for those with Employee Only coverage, and an increase of $10/mo. for those who Opt Out of health coverage, and

WHEREAS, the Council desires to provide 7.5% Registered Engineer Pay for certain designated classifications, effective June 26, 2007, and

WHEREAS, the Council desires to increase the uniform allowance for sworn Fire Management employees to eighty-five dollars ($85.00)/mo. effective July 1, 2007, and

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

SECTION 1. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to health, dental and vision benefits for unrepresented employees are hereby increased, to the following amounts:

City Contribution - Sworn and Non-Sworn

	Effective July 24, 2007
Family	$867/month
Employee Only	$525/month
Opt Out	$400/month

AMENDED

Effective July 26, 2005, the City's contribution toward unrepresented employees with Family coverage shall not exceed the actual premium amount for the lowest cost health (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

Effective July 26, 2005, the City's contribution toward unrepresented employees with Employee Only coverage shall not be less than the actual premium amount for the lowest cost health, (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

SECTION 2. REGISTERED ENGINEER PAY. Effective June 26, 2007, those employees in the classifications of Deputy Director or City Engineer who possess a current registration as a Professional Civil or Traffic Engineer in the State of California shall be eligible to receive 7.5% Registered Engineer Pay.

SECTION 3. UNIFORM ALLOWANCES. Uniform allowances for unrepresented Management and Confidential employees who are required to wear a uniform, are as follows:

Positions	Effective Date	Allowance
Sworn Police	January 1, 2008	$94.00 (Per Reso. No. 2005-602)
Sworn Fire Management	July 1, 2007	$85.00

SECTION 4. DEFERRED COMPENSATION 401(a) MONEY PURCHASE PLANS. The 401(a) Money Purchase Plans shall provide for a City-paid contribution and equal mandatory employee contribution, effective January 1, 2006, of 5% for Charter Officers, 3% for Executives other than Charter Officers, and 2% for all other unrepresented Management and Confidential employees.

SECTION 5. COMPENSATORY TIME OFF CAP. Management and Confidential employees who are overtime-eligible shall be paid quarterly for all CTO over their established cap. For employees hired on or after December 6, 2005, the CTO cap shall be 100 hours. For employees hired before December 6, 2005, the cap shall be 160 hours.

SECTION 6. MANAGEMENT AND CONFIDENTIAL LEAVE. Management Leave for Management employees shall be 80 hours annually, effective January 1, 2002, except that for overtime-eligible Management employees the annual allocation shall be 40 hours effective calendar year 2006. For Fire Battalion Chiefs on a 56-hour schedule, the annual allocation of Management Leave shall be 112 hours, and for Confidential employees Leave shall be 20 hours annually, effective January 1, 2002.

SECTION 7. MANAGEMENT AND CONFIDENTIAL LEAVE ANNUAL CASHOUT. The maximum number of hours available for cashout each December shall be 40 hours annually for Management employees, except that for overtime-eligible Management employees the maximum cashout shall be 20 hours effective calendar year 2006. Maximum annual cashout shall be 18 hours for Confidential employees.

Effective December 2007, the maximum annual cashout shall be 80 hours for Executives and Charter Officers, and 60 hours for Police Captains, Fire Battalion Chiefs, Fire Division Chiefs, Deputy Directors, Assistant City Attorney and Deputy/Senior Deputy Attorney I/II. For Fire Battalion Chiefs on a 56-hour schedule, the maximum cashout shall be 84 hours.

SECTION 8. FIRE CHIEF OFFICER SHIFT STIPEND. Effective December 27, 2005, Fire Battalion Chiefs and Fire Division Chiefs assigned to work extra shifts in order to maintain a consistent staffing of two (2) Battalion Chiefs to the extent possible, may receive a stipend of

one thousand dollars ($1,000) per 24-hour shift. Criteria for assignment to extra shifts with the stipend shall be at the discretion of the Fire Chief, who shall also determine when staffing at the level of one Battalion Chief is acceptable. The Fire Chief shall annually determine the maximum number of assignments available for stipend, subject to funds budgeted and the needs of the City. As FLSA Exempt management employees, Fire Battalion Chiefs and Fire Division Chiefs may be required to work both emergency and non-emergency assignments without additional compensation.

SECTION 9. NEGATIVE VACATION. Effective March 7, 2006, use of negative vacation will be permitted only for extenuating circumstances and will require the approval of the City Manager, or designee.

SECTION 10. PROBATIONARY PERIOD. All original and promotional appointments to positions in the Classified Service shall be tentative and subject to a probationary period of one year from the date of appointment to the position. The purpose of the probationary period is to train, observe and evaluate the employee on conduct, performance, attitude, adaptability and job knowledge.

Initial Probation: It is understood that the probationary period will normally last for one year from the date of appointment, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1680 hours. In the event that an employee works less than 1680 hours in the first twelve months of employment, then the employee's probation shall be extended until he/she has worked 1680 hours.

Promotional Probation: It is understood that the probationary period, upon promotion, will normally last for one year from the date of promotion, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1560 hours.

In the event that an employee works less than 1560 hours during the twelve months following his/her promotion, then the employee's probation shall be extended until he/she has worked 1560 hours.

During the probationary period an employee may be released at any time without right of appeal. Written notice of release shall be furnished to the probationer. An employee released during or at the conclusion of probation following a promotion, shall be reinstated to the position previously held, at the former salary step, except if the reasons for release are cause for dismissal.

SECTION 11. DEFERRED COMPENSATION SERVICE DATES. The CITY shall continue to provide access to a 457 deferred compensation program authorized by the City Council for the voluntary participation of City employees. In addition, the CITY shall match on behalf of a participating employee in a regular position, one and one-half percent (1.5%) of an employee's regular rate of pay on a bi-weekly basis; provided, the employee is contributing at least one and one-half percent (1.5%). For such employees who have been continuously employed by the CITY for nine (9) or more years, the CITY shall contribute two and one-half percent (2.5%); provided the employee is contributing at least two and one-half percent (2.5%). Effective January 1, 2006, this increase in the City's contribution shall be effective with the first payperiod to begin in the month following completion of nine (9) years of service, provided that the employee has completed any required documents.

SECTION 12. DOMESTIC PARTNERS. Benefits applicable to spouses shall be extended to registered domestic partners, as required by law.

SECTION 13. MEDICAL LEAVES OF ABSENCE. Effective December 6, 2005, employees requesting an Authorized Medical Leave of Absence without pay, due to a medical

incapacity to perform the duties of their position, must provide written medical verification of a long-term disability, illness or injury.

SECTION 14. CATASTROPHIC LEAVE. Effective December 6, 2005, employees requesting Catastrophic Leave donations must provide a written medical verification of long term illness or injury, or verification of a family member's illness or injury.

SECTION 15. HAZARDOUS MATERIALS CERTIFICATION PAY. Effective July 1, 2003, one (1) Fire Department Battalion Chief or Division Chief shall be authorized five (5%) percent Haz Mat Pay, when certified as a Hazardous Materials Specialist and assigned to administer the City of Modesto's participation in the Regional Hazardous Materials Response Team. This pay replaced the annual Haz Mat Stipend.

SECTION 16. MASTERS DEGREE INCENTIVE PAY. Effective June 29, 2004, employees who possess a Masters Degree or Juris Doctor from an accredited institution, shall be granted one and one half (1.5%) percent Masters Pay, subject to criteria as established by the City.

SECTION 17. REGISTRATION AND CERTIFICATION FEES. Effective July 1, 2003, when an employee is required by the City to obtain or renew a certificate, license or registration in order to carry out their assigned duties, except a California Class C Driver's License, the City will pay the fee for the actual certificate, license or registration, (and exam fee, if any).

SECTION 18. LEAVE CASHOUTS FOR SWORN FIRE MANAGEMENT EMPLOYEES. Sworn Fire Management employees in the classifications of Fire Battalion Chief, Fire Division Chief and Fire Chief working a 40 hour schedule shall be afforded the opportunity to cashout up to 61 hours of vacation leave per calendar year (at straight time rates)

and up to 88 hours of holiday leave per calendar year (at time and one-half), effective July 1, 2003. Employees in the classification of Fire Battalion Chief working a 56 hour schedule shall be afforded the opportunity to cash out up to 72 hours of vacation leave per calendar year (at straight time rates) effective June 20, 2000, and up to 132 hours of holiday leave per calendar year (at time and one-half). Holiday leave may not be carried over year-to-year regardless of the schedule worked.

SECTION 19. VEHICLE ALLOWANCE. Per Resolution No. 2001-271 effective July 1, 2001, the vehicle allowance for Executives and Charter Officers who receive an allowance, shall be $400/month, and the City Manager is authorized to grant Deputy Directors either an assigned City vehicle or a vehicle allowance in the amount of $300/month. The City Manager is also authorized to grant selected Management employees a vehicle allowance of $100-$200/month based on Department Director recommendation and an annual justification relating to extensive use of a personal vehicle while conducting City business.

SECTION 20. SICK LEAVE CASHOUT FOR SWORN FIRE MANAGEMENT EMPLOYEES. Effective June 22, 1999, Sworn Fire management employees who leave City service in good standing (other than retirement) after five (5) years of continuous service, shall be paid the first twenty-two hundred (2,200) hours of their current unused sick leave, reduced by hours previously converted to Deferred Compensation, as follows: (1) Ninety (90%) percent of accrued sick leave hours as of the date of the employee's initial promotion to a management classification shall be paid out at the current regular rate of pay (top step) for Fire Captain, and (2) In addition, twenty-five (25%) percent of the remaining sick leave hours accruing after promotion to a management classification shall be paid out at the employee's then current regular rate of pay.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-387

RESOLUTION AMENDING THE FISCAL YEAR 07-08 OPERATING BUDGET TO TRANSFER $400,000 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, AND $79,000 FROM OTHER FUND RESERVES, TO VARIOUS SALARY AND BENEFIT ACCOUNTS TO PROVIDE FUNDING FOR SALARY AND BENEFIT CHANGES FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES

WHEREAS, the City Council desires to make salary and benefit changes for unrepresented Management and Confidential employees, including Charter Officers and Executives, and

WHEREAS, the FY 07-08 costs associated with these changes are estimated at $490,700, effective June 26, 2007, and

WHEREAS, $479,000 of these increased expenditures have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2007-08 Operating Budget is hereby amended to transfer $400,000 from 0100-800-8000-8003, the General Fund Reserve, and $79,000 from other Fund reserves to various salary and benefit accounts, to fund said salary and benefit changes for unrepresented Management and Confidential employees, including Charter officers and Executives.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-388

A RESOLUTION APPOINTING STEPHEN BONREPOS AND ELIZABETH SWEARINGEN TO THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on June 11, 2007, and recommended appointment of STEPHEN BONREPOS and ELIZABETH SWEARINGEN to the Citizens Advisory Committee on Recycling.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. STEPHEN BONREPOS and ELIZABETH SWEARINGEN are hereby appointed to the Citizens Advisory Committee on Recycling with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Citizens Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-389

A RESOLUTION APPOINTING DANA CULBERTSON TO THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on June 11, 2007, and recommended appointment of DANA CULBERTSON to the Citizens Housing & Community Development Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DANA CULBERTSON, is hereby appointed to the Citizens Housing & Community Development Committee with a term expiration of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Housing & Community Development, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-390

A RESOLUTION APPOINTING PAUL FREDERICKS TO THE COMMUNITY QUALITIES FORUM

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on June 11, 2007, and recommended appointment of PAUL FREDERICKS, a southwest resident, to the Community Qualities Forum.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. PAUL FREDERICKS, a southwest resident, is hereby appointed to the Community Qualities Forum with term expirations of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Community Qualities Forum, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-391

Print

A RESOLUTION APPOINTING GEORGE SHARP TO THE DISABLED ACCESS APPEALS BOARD

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on June 11, 2007, and recommended appointment of GEORGE SHARP to the Disabled Access Appeals Board.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. GEORGE SHARP is hereby appointed to the Disabled Access Appeals Board with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Disabled Access Appeals Board, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-392

A RESOLUTION APPOINTING PHILLIP HAWLEY AND GEORGE MAUDLIN TO THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, WHEREAS, the Economic Development Committee met on June 11, 2007, and recommended appointment of PHILLIP HAWLEY and GEORGE MAUDLIN to the Golf Courses Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. PHILLIP HAWLEY and GEORGE MAUDLIN are hereby appointed to the Golf Courses Advisory Committee with term expirations of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Golf Courses Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-393

A RESOLUTION APPOINTING VERONNA S. SIMRIL TO THE HOUSING REHABILITATION LOAN COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on June 11, 2007, and recommended appointment of VERONNA S. SIMRIL to the Housing Rehabilitation Loan Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. VERONNA S. SIMRIL is hereby reappointed to the Housing Rehabilitation Loan Committee with a term expiration of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Housing Rehabilitation Loan Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-394

RESOLUTION APPROVING AMENDMENT NO. 1 TO AN AGREEMENT BETWEEN THE CITY OF MODESTO AND JONES & STOKES ASSOCIATES FOR ADDITIONAL WORK REQUIRED TO ADD CLIMATE CHANGE ANALYSIS TO THE MASTER ENVIRONMENTAL IMPACT REPORT UPDATE FOR THE URBAN AREA GENERAL PLAN, IN AN AMOUNT NOT TO EXCEED $11,520 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDED AGREEMENT

WHEREAS, the City of Modesto has initiated a maintenance update of the Urban Area General Plan and its Master Environmental Impact Report, to allow for the orderly and future development within the City, its Sphere of Influence, and the Urban Area General Plan area, and

WHEREAS, Section 21080.1 of the California Public Resources Code requires the City of Modesto, as lead agency, to make a determination of whether an environmental impact report is required for the Project, and

WHEREAS, on September 5, 2006, by Resolution No. 2006-568, the City Council approved an Agreement with Jones & Stokes Associates to prepare an update to the Urban Area General Plan and its Master Environmental Impact Report in an amount not to exceed $937,280, a copy of which is on file in the City Clerk's Office, and

WHEREAS, City staff recommends that the Agreement between the City of Modesto and Jones & Stokes Associates be amended to provide for additional work required to add climate change analysis to the MEIR Update, in an amount not to exceed $11,520, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 1 to the Agreement for Consultant Services ("Amendment No. 1") between the City of Modesto and Jones & Stokes Associates for an update to the Master Environmental Impact Report, in an amount not to exceed $11,520.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment No. 1 to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-395

RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 OPERATING BUDGET TO APPROPRIATE $11,520 FROM THE GENERAL FUND RESERVE TO THE MULTI-YEAR BUDGET FOR THE GENERAL PLAN UPDATE (0800-140-1440-0235) FOR AMENDMENT NO. 1 TO AN AGREEMENT BETWEEN THE CITY OF MODESTO AND JONES & STOKES ASSOCIATES

WHEREAS, the City of Modesto has executed an Agreement with Jones & Stokes Associates to update the Urban Area General Plan and its Master Environmental Impact Report, which Agreement is administered by the Planning Division of the Community and Economic Development Department, and

WHEREAS, Resolution 2007-394 approves Amendment No. 1 to an Agreement between the City of Modesto and Jones & Stokes Associates for additional work to add a climate change analysis to the update of the Master Environmental Impact Report for the Urban Area General Plan, in an amount not to exceed $11,520 and authorizing the City Manager to execute the amended Agreement, and

WHEREAS, revenue projections for this project did not anticipate the need for an additional climate change analysis.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2007-2008 operating budget to appropriate $11,520 from the General Fund reserve to the multi-year budget for the General Plan Update (0800-140-1440-0235) for Amendment No. 1 to an Agreement between the City of Modesto and Jones & Stokes Associates.

BE IT FURTHER RESOLVED that the Finance Director, or designee, is hereby authorized to take the necessary steps to implement the provisions of this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-396

RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND VERONICA TAM AND ASSOCIATES FOR PLANNING SERVICES IN AN AMOUNT NOT TO EXCEED $49,820 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the Program 1.3 of the City's 2003 Housing Element requires the City to conduct a feasibility study regarding a potential Inclusionary Housing program with an in-lieu fee option, and

WHEREAS, in addition to the feasibility study, the Economic Development Committee of the City Council has recommended that staff pursue development of a more comprehensive Affordable Housing Toolbox, and

WHEREAS, Veronica Tam prepared the City's 2003 Housing Element and therefore Veronica Tam and Associates uniquely possesses the experience, local knowledge and in-house expertise to perform the work necessary to prepare the Affordable Housing Toolbox, and

WHEREAS, City staff recommends that Veronica Tam and Associates be hired to provide the services necessary to develop the Affordable Housing Toolbox because of their extensive experience on similar projects in this and other jurisdictions, and

WHEREAS, the City and Veronica Tam and Associates desire to enter into an agreement for this work, in an amount not to exceed $49,820, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement Between the City of Modesto and Veronica Tam and Associates to provide planning services, in an amount not to exceed $49,820.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-397

RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND GEORGE MEDINA AND DOLORES MEDINA FOR THE ACQUISITION OF PROPERTY, BEING (APN: 067-034-005) FOR THE LINCOLN/LAKEWOOD BRIDGE PROJECT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AGREEMENT AND ALL RELATED PROPERTY DOCUMENTS AS THE GRANTEE ON BEHALF OF THE CITY OF MODESTO

WHEREAS, on October 24, 2006, the City Council of the City of Modesto directed staff to enter into negotiations with George Medina and Dolores Medina for the acquisition of real property (APN: 067-034-005) for the Lincoln/Lakewood Bridge Project, and

WHEREAS, said real property needs to be acquired for this right-of-way project, and

WHEREAS, said real property was appraised and City offered the appraised value, and

WHEREAS, an agreement is needed for the acquisition of said real property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between City of Modesto and George Medina and Dolores Medina for the acquisition of real property (APN: 067-034-005) for the Lincoln/Lakewood Bridge Project in the amount of $575,000 is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-398

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ACCEPTANCE FORM ON BEHALF OF THE CITY OF MODESTO FOR THE GRANT DEED FOR THE ACQUISITION OF REAL PROPERTY OWNED BY GEORGE MEDINA AND DOLORES MEDINA (APN: 067-034-005) FOR THE LINCOLN/LAKEWOOD BRIDGE PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire real property (APN: 067-034-005) from George Medina and Dolores Medina for the Lincoln/Lakewood Bridge Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign an acceptance form on behalf of the City of Modesto for the Grant Deed for the acquisition of real property owned by George Medina and Dolores Medina (APN: 067-034-005) for the Lincoln/Lakewood Bridge Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-399

RESOLUTION AUTHORIZING THE AMENDEMENT OF FISCAL YEAR 07/08 STREETS CAPITAL FACILITIES FEES (CFF) RESERVES ACCOUNT 1410-800-8000-8003, TO APPROPRIATE $95,000 TO THE MULTI-YEAR SECONDARY ACCOUNT 1410-430-H694-6030, LINCOLN/LAKEWOOD RIGHT-OF-WAY PRESERVATION ACCOUNT TO FUND THE ACQUISITION OF REAL PROPERTY OWNED BY GEORGE MEDINA AND DOLORES MEDINA (APN: 067-034-005) TO THE CITY OF MODESTO FOR THE LINCOLN/LAKEWOOD BRIDGE PROJECT

WHEREAS, on October 24, 2006, the City Council of the City of Modesto directed staff to enter into negotiations with George Medina and Dolores Medina for acquisition of real property (APN: 067-034-005) for the Lincoln/Lakewood Bridge Project, and

WHEREAS, said real property needs to be acquired for this right-of-way project, and

WHEREAS, said real property was appraised and City offered the appraised value, and

WHEREAS, a budget adjustment is necessary to appropriate funds to fully fund the cost of acquisition of said real property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the amendment of FY 07/08 Streets Capital Facilities Fees Reserve Account 1410-800-8000-8003, to appropriate $95,000 to Multi-Year Account 1410-430-H694-6030, Lincoln/Lakewood Right-of-Way Preservation-Secondary, to fully fund the acquisition of real property owned by George Medina and Dolores Medina (APN: 067-034-005) for the Lincoln/Lakewood Bridge Project is hereby approved.

BE IT FURTHER RESOLVED that the amendment of FY 07/08 Streets Capital Facilities Fees Reserve Account 1410-800-8000-8003, to appropriate $95,000 to Multi-Year Account 1410-430-H694-6030, Lincoln/Lakewood Right-of-Way Preservation-Secondary, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-400

RESOLUTION ACCEPTING THE STANISLAUS HOUSING AND SUPPORT SERVICES COLLABORATIVE'S "10-YEAR PLAN TO END LONG-TERM HOMELESSNESS"

WHEREAS, on June 26, 2001, by Resolution No. 2001-313, the City Council approved the designation of the Stanislaus Housing and Support Services Collaborative (Collaborative) as the planning and coordinating body for homeless issues in Stanislaus County and representatives from the Parks, Recreation and Neighborhoods Department participate in this Collaborative, and

WHEREAS, the Collaborative is currently composed of private and public entities concerned with providing safe, affordable housing access and supportive services for the people that are homeless or at risk of being homeless, and

WHEREAS, from the perspective of the Collaborative, and the Community Development Block Grant (CDBG) and Emergency Shelter Grant (ESG) Programs, the City of Modesto continues to consider the issue of homelessness as one of its most important priorities, and

WHEREAS, in collaboration with Behavioral Health and Recovery Services and the Corporation for Supportive Housing, and with direction from the Department of Housing and Urban Development (HUD), the community has developed an achievable plan to marshal resources that will address long-term homelessness in Stanislaus County, and

WHEREAS, in order for each City and County to remain eligible as an Entitlement Jurisdiction and receive CDBG funds and ESG funds, staff is required to coordinate the approval of a 10-Year Plan to End Long-Term Homelessness (Plan), and

WHEREAS, the Plan approval will assist in more effective use of public and private resources to improve the quality of life for people who are now homeless and in jeopardy of becoming homeless, and for the communities and neighborhoods in which they now live, and

WHEREAS, the Plan will assist in directing opportunities for some new construction, acquisition and rehabilitation of existing housing or viable buildings, set-asides of units within housing developments in the pipeline, as well as master lease existing housing towards serving the long-term homeless population, and

WHEREAS, the City of Modesto is currently working with Habitat for Humanity, Stanislaus to develop the Hope Village Project, and

WHEREAS, this development will add 20 affordable single family units to the City's housing stock. In addition, twenty (20%) percent of the units or four (4) units , will be assigned to very-low income families, including homeless families or households that are under the 35% of the median income, and

WHEREAS, the Plan must be adopted in order to remain competitive and eligible for Federal CDBG, ESG, and other Federal affordable and homeless related housing programs, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on June 22, 2007, and supported staff's recommendation to accept the 10-Year Plan to End Long-Term Homelessness,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts the Stanislaus Housing and Support Services Collaborative's "10-Year Plan to End Long-Term Homelessness".

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-401

RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING INC. FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE TUOLUMNE RIVER BANK EROSION PROJECT IN AN AMOUNT NOT TO EXCEED $55,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, due to rains during the 2005/2006 winter season, erosion on a portion of the Tuolumne River embankment near Neece Drive occurred, and

WHEREAS, this erosion has left a gravity sewer pipe undermined and unsupported in two locations of approximately two (2) linear feet each, and

WHEREAS, at one of these locations a manhole's concrete footing is partially exposed and unsupported as well, and

WHEREAS, the same conditions exist for approximately 200 feet upstream and 100 feet downstream along the river's edge, and

WHEREAS, HDR Engineering (HDR) was contracted through an existing On-Call Engineering contract to review repairs needed to permanently fix the problem, and

WHEREAS, the recommended work at the site includes adding varied gradations of rip rap and soil backfill above the pipe and down the slope (above the water surface, and below the water line) to provide adequate cover for the pipe and a foundation of rock slope protection, and

WHEREAS, all of the necessary permits have been received, and

WHEREAS, Public Works Engineering has this project currently out to bid for the construction phase as the Department of Fish and Wildlife has mandated this project be completed between early August to late September, and

WHEREAS, Public Works Engineering will be unable to assist in the construction management for this project within this time frame due to staff shortages; and

WHEREAS, HDR completed the drawings and specifications for the Tuolumne River Bank Erosion Project and is familiar with the project, and

WHEREAS, HDR's proposed costs are within the costs estimated by Public Works Engineering for this work, and

WHEREAS, funds are budgeted in the Tuolumne River Bank Erosion Project 6210-480-B447-6060,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with HDR Engineering Inc. for Construction Management and Inspection Services for the Tuolumne River Bank Erosion Project in an amount not to exceed $55,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST:

By: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007–402

RESOLUTION APPROVING A FIRST AMENDMENT TO AN AGREEMENT WITH KLEINFELDER FOR ADDITIONAL SERVICES REQUIRED BY THE DEPARTMENT OF FISH AND WILDLIFE FOR THE TUOLUMNE RIVER BANK EROSION PROJECT IN AN AMOUNT NOT TO EXCEED $19,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FIRST AMENDMENT TO AGREEMENT

WHEREAS, due to rains during the 2005/2006 winter season, erosion on a portion of the Tuolumne River embankment near Neece Drive occurred, and

WHEREAS, this erosion has left a gravity sewer pipe undermined and unsupported in two locations of approximately two (2) linear feet each, and

WHEREAS, at one of these locations a manhole's concrete footing is partially exposed and unsupported as well, and

WHEREAS, the same conditions exist for approximately 200 feet upstream and 100 feet downstream along the river's edge, and

WHEREAS, all of the necessary permits have been received, and

WHEREAS, as part of the permit issuance, the Department of Fish and Wildlife has required that a Biologist be on site for protection of endangered species (such as the Elderberry Longhorn Beetle) located at the construction site, and

WHEREAS, City currently has an agreement with Kleinfelder for permitting assistance and environmental review support for this project approved by Council on March 28, 2006 by Resolution No. 2006-172, and

WHEREAS, City staff recommends amending this agreement to include these additional services required by the Department of Fish and Wildlife, and

WHEREAS, funds are budgeted in the Tuolumne River Bank Erosion Project 6210-480-B447-6080, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes a first amendment to an agreement with Kleinfelder for additional service required by the Department of Fish and Wildlife for the Tuolumne River Bank Erosion Project in an amount not to exceed $19,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST:

By: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007–403

RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE FURNISHING OF ROCK CRUSHING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, STORMWATER COLLECTIONS DIVISION, FOR A TWO- YEAR (2-YEAR) ANNUAL AGREEMENT WITH THREE (3) ANNUAL EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $ 112,000

WHEREAS, the City of Modesto's Stormwater Collections crews maintain 11,000 plus rockwells throughout our storm drainage system, and

WHEREAS, crews generate and stockpile approximately 12-15 thousand tons of used 1½" drain rock at the primary treatment plant, and

WHEREAS, additionally, Collections construction crew generates approximately 5000 cubic yards of soil and concrete debris also stockpiled at the same location, and

WHEREAS, funds for this contract are available in 6280-480-5312-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal request for bids for furnishing of Rock Crushing Services for a two-year annual agreement with three (3) annual extension options at the sole discretion of the City, for an estimated annual costs of $112,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-404

RESOLUTION ACCEPTING THE WORK BY COLLINS ELECTRICAL COMPANY, INC., FOR THE PROJECT TITLED "INSTALLATION OF LIGHTED CROSSWALKS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENTS OF AMOUNTS TOTALING $223,680.00

WHEREAS, a report has been filed by the Public Works Director that the project titled "Installation of Lighted Crosswalks" has been completed by Collins Electrical Company, Inc., in accordance with the contract agreement dated September 5, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Modification of Traffic Signals at 4 Intersections" is hereby accepted as complete from said contractor, Collins Electrical Company, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $223,680.00, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-405

RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH ICM GROUP, INC., FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE VIRGINIA CORRIDOR PHASE III WITH DOWNSTREAM WATER SYSTEM IMPROVEMENTS PROJECT, IN THE NOT-TO-EXCEED AMOUNT OF $126,324.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Virginia Corridor Phase III Improvements are between College and Roseburg Avenues, and between Orangeburg and Granger Avenues, within the former Union Pacific Railroad right-of-way, which was rail banked for the class 1 bike trail, and

WHEREAS, trail improvements will include a 10-foot wide asphalt trail with 2-foot shoulders, trees, landscaping, irrigation, benches and tables, fencing, and other site amenities, and

WHEREAS, additionally, a Modesto Irrigation District (MID) box culvert extension is to be installed to provide trail landing on the south side of Morris Avenue, and

WHEREAS, a portion of a separate project entitled Downstream Water System Improvements – Tier 1 Water Transmission Mains is to be constructed during this project because these underground mains are aligned and lay within the Virginia Corridor Phase III trail improvements, and

WHEREAS, on June 12, 2007, by Resolution No. 2007-354, Council approved the plans and specifications for the Virginia Corridor Phase III with Downstream Water System Improvements project accepting the bid and awarded a $3,224,959.00 construction contract to George Reed, Inc., and

WHEREAS, on May 31, 2007, eight (8) Construction Management and Inspection Proposals were evaluated, and

WHEREAS, four (4) firms were selected as the most qualified and responsive firms to interview for services, and

WHEREAS, on June 4, 2007, interviews were conducted for construction management and inspection services, and

WHEREAS, ICM Group, Inc., was ranked the most qualified firm for the Virginia Corridor Phase III with Downstream Water System Improvements, and

WHEREAS, City staff recommends that an Agreement with the consulting firm of ICM Group, Inc., be approved to perform the construction management services as current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with ICM Group, Inc., in an amount not-to-exceed $126,324.00 to perform construction management services of the Virginia Corridor Phase III with Downstream Water System Improvements project, and

WHEREAS, ICM Group, Inc., will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Consultant Agreement with ICM Group, Inc., in the amount not-to-exceed $126,324.00, for construction management services of the Virginia Corridor Phase III with Downstream Water System Improvements project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-406

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE 9TH STREET BRIDGE RIPARIAN REVEGETATION PROJECT, ACCEPTING THE BID AND APPROVING A $47,607.50 CONTRACT WITH ODYSSEY LANDSCAPE CO., INC., FOR THE PROJECT TITLED, "9TH STREET BRIDGE RIPARIAN REVEGETATION," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "9th Street Bridge Riparian Revegetation" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "9th Street Bridge Riparian Revegetation" were opened at 11:00 a.m. on June 12, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $47,607.50 received from Odyssey Landscape Co., Inc., be accepted as the lowest responsible bid and the contract be awarded to Odyssey Landscape Co., Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Odyssey Landscape Co., Inc., in the amount of $47,607.50, and hereby awards Odyssey Landscape Co., Inc., the contract titled "9th Street Bridge Riparian Revegetation."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-407

RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT BUDGET IN ORDER TO FULLY FUND THE CONTRACT WITH ODYSSEY LANDSCAPE CO., INC., AND COVER CONSTRUCTION CONTINGENCY AND CONSTRUCTION ADMINISTRATION COSTS BY DECREASING ACCOUNT 0700-800-8000-8003 (SPECIAL GAS TAX RESERVES) BY $12,500 AND REAPPROPRIATING $12,500 TO CIP ACCOUNT 2300-430-M203 (9TH STREET BRIDGE REPLACEMENT (054))

WHEREAS, the City is required to provide a 20% local match to the federal funds to construct the 9th Street Bridge Riparian Revegetation project in the estimated total amount of $64,009.38, including funding a Contract with Odyssey Landscape Co., Inc., for construction and to cover construction contingency and construction administration costs, including contract and design administration by City staff, and

WHEREAS, certain budgetary transactions are necessary to fully fund said Contract with Odyssey Landscape Co., Inc., in the amount of $47,607.50 for construction services, $4,760.75 for construction contingency, $7,141.13 to cover construction administration costs, $4,000 for design administration by City staff, and $500 for design support during construction, for a total of $64,009.38, and

WHEREAS, to cover the local match, the total amount of $12,500 is to be transferred by decreasing Account 0700-800-8000-8003 (Special Gas Tax Reserves) by $12,500 and reappropriating $12,500 to CIP Account 2300-430-M203 (9th Street Bridge Replacement (054)),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the transfer of funds as set forth herein to fully fund the Contract with Odyssey Landscape Co., Inc., in the amount of $47,607.50 for construction

services, $4,760.75 for construction contingency, $7,141.13 to cover construction administration costs, $4,000 for design administration by City staff, and $500 for design support during construction, for a total of $64,009.38 for the 9th Street Bridge Riparian Revegetation project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-408

RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, P.C., TO PREPARE A FINAL PROJECT DESIGN FOR PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT IN AN AMOUNT NOT TO EXCEED $1,844,100, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, based on the recent analysis prepared for the Wastewater Master Plan, there is a need for the addition of tertiary treatment facilities at the City's Jennings Road Secondary Treatment Plant, and

WHEREAS, the Wastewater Master Plan recommended phasing of the tertiary treatment project to adequately address near-term treatment and disposal needs, and

WHEREAS, the City Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, was followed to select a professional engineering design consultant for preliminary design of the Phases 1A and 1B Tertiary Wastewater Treatment Project, and

WHEREAS, following a Request for Qualifications for engineering design services, which was sent to 123 engineering firms, seven Statements of Qualifications were received, and

WHEREAS, of the seven Statements of Qualifications, two firms were short listed for proposals and interviews, and

WHEREAS, Carollo Engineers, P.C. (Carollo) was deemed most qualified and selected for preliminary engineering design services, and

WHEREAS, Carollo has satisfactorily completed preliminary engineering design services for the Phases 1A and 1B Tertiary Wastewater Treatment Project, and

WHEREAS, City staff recommends that an Agreement with the consulting firm of Carollo be approved to perform the final project design services as the City does not have the staffing level to design these projects and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS the Public Works Director has recommended a new Agreement with Carollo to complete the final design, provide biddable documents, and provide bid period services for the Phase 1A Tertiary Wastewater Treatment Project in an amount not to exceed $1,844,100, and

WHEREAS, Carollo will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Carollo Engineers, P.C. to prepare a final project design for the Phase 1A Tertiary Wastewater Treatment Project in an amount not to exceed $1,844,100.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-409

RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT BUDGET IN ORDER TO FULLY FUND THE AGREEMENT WITH CAROLLO ENGINEERS, P.C., BY DECREASING CIP ACCOUNT 6210-480-B806-6010 (WW TREATMENT-PHASE 1B) BY $1,527,500 AND RETURNING THE FUNDS TO ACCOUNT 6210-800-8000-8003 (WASTEWATER FUND RESERVES), THEN DECREASING ACCOUNT 6210-800-8000-8003 (WASTEWATER FUND RESERVES) AND REAPPROPRIATING $1,527,500 TO CIP ACCOUNT 6210-480-B805-6010 (WW TREATMENT-PHASE 1A)

WHEREAS, the CIP Account 6210-480-B805-6010 (WW Treatment-Phase 1A) only provides $390,412.39 in available funds to fully fund final project design of the Phase 1A Tertiary Wastewater Treatment Project in the estimated total amount of $1,917,912, including funding an Agreement with Carollo Engineers, P.C. (Carollo), for final project design and to cover contract administration costs by City staff, and

WHEREAS, certain budgetary transactions are necessary to fully fund said Agreement with Carollo, in the amount of $1,844,100 for final project design services, and $73,812 to cover contract administration costs by City staff, for a total of $1,917,912, and

WHEREAS, at the time the CIP accounts were originally set up, CIP Account 6210-480-B806-6010 (WW Treatment-Phase 1B) accounted for a higher percentage of the budget than CIP Account 6210-480-B805-6010 (WW Treatment-Phase 1A), however, due to change in scope, the budgets for final project design for both accounts require redistribution between Phases 1A and 1B Tertiary Wastewater Treatment Facilities, and

WHEREAS, the total amount of $1, 527,500 is to be transferred by decreasing CIP Account 6210-480-B806-6010 (WW Treatment-Phase 1B) by $1,527,500 and

returning the funds to Account 6210-800-8000-8003 (Wastewater Fund Reserves), then decreasing Account 6210-800-8000-8003 (Wastewater Fund Reserves) and reappropriating $1,527,500 to CIP Account 6210-480-B805-6010 (WW Treatment-Phase 1A),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the transfer of funds as set forth herein to fully fund the Agreement with Carollo, in the amount of $1,844,100 for final project design services, and $73,812 to cover contract administration costs by City staff, for a total of $1,917,912, for the Phase 1A Tertiary Wastewater Treatment Project.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-410

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO ACTING AS THE GOVERNING BODY OF ALL OF ITS COMMUNITY FACILITIES DISTRICTS ORDERING JUDICIAL FORECLOSURE OF DELINQUENT SPECIAL TAXES PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, ORDERING THAT THE TAX COLLECTOR BE CREDITED WITH THOSE TAXES, APPROVING AN AGREEMENT FOR LEGAL SERVICES WITH SHERMAN & FELLER, A LAW CORPORATION, FOR LEGAL SERVICES FOR COLLECTON AND FORECLOSURE PROCEEDINGS RELATED TO DELINQUENT COMMUNITY FACILTIES DISTRICT SPECIAL TAXES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto ("City") has conducted proceedings resulting in the formation of Community Facilities Districts ("CFDs") and the issuance and sale of bonds or debt pursuant to the Mello-Roos Community Facilities Act of 1982 (Cal. Gov. Code Section 53311, et seq.; the "Act"), and

WHEREAS, pursuant to the Act, the City has duly recorded Notices of Special Tax Lien and has duly and regularly levied special taxes, which special taxes and interest and penalties thereon constitute a lien against the parcel of the land against which it was levied until the same are paid, which liens secure in whole or part debt issued pursuant to the Act, and

WHEREAS, certain installments of the special taxes have not been paid when due, and certain special taxes may not be paid when due in the future, and

WHEREAS, pursuant to Section 53356.1(a) of the Act, the CFDs are authorized to order the special taxes collected by an action brought in the Superior Court to foreclose their liens, and

WHEREAS, pursuant to Section 53356.1(b) of the Act, the CFDs covenanted for the benefit of owners of the debt to file such foreclosure actions on behalf of the debt holders and

are authorized to order the County Auditor to credit the delinquent special taxes upon the secured tax roll, thus relieving the County Tax Collector of further duty and regard thereto, and,

WHEREAS, the City desires to retain experienced, qualified counsel to prosecute such judicial foreclosure actions, and

WHEREAS, Sherman & Feller, a Law Corporation ("Attorney") represents that it is qualified, willing and able to provide said services, and

WEREAS, in an effort to prevent large delinquencies from accumulating, the City desires to establish an additional administrative foreclosure threshold in the amount of $5,000, and

WHEREAS, this additional threshold will allow foreclosure proceedings to commence on any parcel where the special tax delinquency is $5,000 or greater, regardless of the number of delinquent payments,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto acting as the Legislative Body of all of the City of Modesto CFDs that:

1. The City finds that the Act authorizes the filing of judicial foreclosure lawsuits to collect delinquent special taxes, and hereby orders that the delinquent special taxes listed on the attached Exhibit A and all future delinquent special taxes as to such property, be collected by action brought in the appropriate Superior Court to foreclose the liens thereof.

2. The Agreement for legal services between the City of Modesto and Sherman & Feller, a Law Corporation ("Agreement"), is hereby approved.

3. The City Manager, or his designee, is hereby authorized to the execute the Agreement.

3. Attorney shall act as special counsel on the terms set forth in the Agreement presented to the Council and shall prosecute the foreclosure actions and collect on behalf of the CFDs all amounts due on account of the special taxes listed in Exhibit A and any subsequent delinquent special taxes levied.

4. The Act provides for the payment of the costs and attorneys fees for prosecution of the foreclosure lawsuits on redemption prior to entry of judgment as well as on post-judgment redemption, and hereby authorizes Attorney to require payment on its behalf of all costs and all attorneys' fees incurred to collect the delinquent special taxes as a condition of such redemption as provided in the Agreement.

5. City staff in conjunction with special counsel and other City consultants are authorized and directed if and as applicable, pursuant to Government Code Section 53356.2: 1) to record notices of intent to remove the delinquent special taxes from the tax rolls, and 2) to request that the applicable County officials remove current and future delinquent special taxes from the tax rolls.

6. An additional administrative foreclosure threshold in the amount of $5,000 be established. This additional threshold will allow foreclosure proceedings to commence on any parcel where the special tax delinquency is $5,000 or greater, regardless of the number of delinquent payments.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"

CFD No. 2003-1 (Fairview Village)
Delinquent Special Taxes (updated June 30, 2007)

FeeParcel	Fiscal Year	Amount*
056-094-011-000	2006	$889.28
056-094-013-000	2006	$889.28
056-094-020-000	2006	$889.28
056-094-031-000	2006	$444.64
056-094-035-000	2006	$444.64
056-094-038-000	2006	$444.64
056-094-039-000	2006	$889.28
056-094-051-000	2006	$889.28
056-094-053-000	2005	$434.78
	2006	$889.28
056-094-060-000	2005	$869.56
056-094-078-000	2006	$889.28
056-094-081-000	2006	$889.28
056-094-085-000	2006	$889.28
056-094-088-000	2006	$444.64
056-094-089-000	2006	$889.28
056-094-097-000	2006	$889.28
056-095-010-000	2006	$889.28
056-095-035-000	2006	$444.64
056-095-041-000	2006	$444.64
056-096-005-000	2006	$889.28
056-096-015-000	2006	$889.28
056-096-055-000	2005	$434.78
	2006	$444.64

*Does not include delinquent and redemption penalties.

EXHIBIT "A"

CFD No. 2003-1 (Fairview Village)
Delinquent Special Taxes (updated June 30, 2007)

FeeParcel	Fiscal Year	Amount*
056-096-057-000	2006	$444.64
056-096-059-000	2006	$889.28
056-096-060-000	2006	$889.28
056-096-076-000	2005	$869.56
	2006	$889.28
056-096-106-000	2006	$444.64
056-096-107-000	2006	$444.64
056-096-115-000	2006	$444.64
056-096-122-000	2005	$434.78
	2006	$889.28
056-096-127-000	2006	$444.64
056-096-129-000	2006	$444.64
056-097-009-000	2006	$444.64
056-097-014-000	2006	$889.28
056-097-018-000	2006	$444.64
056-097-019-000	2005	$434.78
	2006	$889.28
056-097-021-000	2006	$889.28
056-097-032-000	2006	$889.28
056-097-053-000	2006	$889.28
056-097-063-000	2006	$444.64
056-097-087-000	2006	$889.28
056-097-089-000	2006	$889.28
056-097-090-000	2006	$444.64

*Does not include delinquent and redemption penalties.

EXHIBIT "A'

CFD No. 2004-1 (Village One #2)
Delinquent Special Taxes (updated June 30, 2007)

FeeParcel	Fiscal Year	Amount*
077-055-009-000	2005	$492.09
	2006	$1,039.94
077-055-033-000	2005	$492.09
	2006	$1,039.94
077-055-044-000	2005	$492.09
	2006	$1,039.94
077-055-076-000	2005	$492.09
	2006	$1,039.94
085-007-018-000	2006	$10,195.56
085-050-001-000	2005	$16,926.48
	2006	$23,123.26

*Does not include delinquent and redemption penalties.

Print

MODESTO CITY COUNCIL
RESOLUTION NO 2007-411

RESOLUTION REJECTING THE SOLE RESPONSIVE BID FOR CROWN VICTORIA POLICE INTERCEPTOR VEHICLES – 2008 MODEL YEAR, DUE TO THE BID NOT BEING COMPETITIVELY PRICED BASED ON SIMILAR CONTRACTS WITH PUBLIC AGENCIES WITHIN THE STATE OF CALIFORNIA, AND AUTHORIZE THE PURCHASE OF FIFTEEN (15) CROWN VICTORIA POLICE INTERCEPTOR VEHICLES BY "ACCESSING THE TERMS" OF A COMPETITIVELY BID CONTRACT WITH THE CITY OF SACRAMENTO, THROUGH DOWNTOWN FORD, SACRAMENTO, CA, FOR A ESTIMATED COST OF $400,500

WHEREAS, on August 2, 2006, Council approved Resolution No. 2006-245 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 06/07 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, on March 20, 2007, the Purchasing Division issued Request for Bid No. 0607-39 for the purchase of Police Interceptor Vehicles, Crown Victoria – 2008 model year, to twenty-one (21) vendors, of which one (1) was a local company, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on April 24, 2007, RFB's were formally opened in the City Clerk's office. Of the twenty-one (21) prospective bidders, three (3) companies chose to respond, and

WHEREAS, two (2) companies submitted only one (1) original bid document, and

WHEREAS, RFB language requires bidders to submit two (2) originals and (3) copies, failure to furnish two (2) "inked" signed original bid documents shall result in disqualification, and

WHEREAS, both companies bid submittals were disqualified due to being non-responsive and received no further consideration, and

WHEREAS, RFB specification 3.1 Required Documents, states:

- Failure to furnish two (2) "inked" signed original bid documents will result in disqualification.

- Failure to furnish the required documents may result in disqualification,

and

WHEREAS, a cost analysis was conducted to review the City of Sacramento Contract, issued February 1, 2007, and the State of California Contract, issued June 1, 2007, and

WHEREAS, City staff determined that the sole responsive bidder was not competitively priced with other public agencies, and by "accessing the terms" of a competitively bid contract with the City of Sacramento, through Downtown Ford, Sacramento, CA, the City will select the bid that best suits the City's needs, and

WHEREAS, RFB specification 2.3 Award of Bid, states:

- The City reserves the right to decline to award a contract if it is determined that the proposed pricing is not competitively priced based on similar contracts with public agencies within the State of California.

- The City reserves the right to select that bid, which best suits the City's needs. Regardless of City staff's recommendation, the City Council reserves the right to award a contract to the bidder that best suits the City's needs as determined by the City Council whether or not said award is consistent with City staff's recommendation for award

WHEREAS, The Modesto Municipal Code Section 8-3.203, requires all purchases, which meet or exceed $50,000 for material and equipment or contractual services to be formally bid, and

WHEREAS, per Modesto Municipal Code Section 8-3.204 (d) the Purchasing Manager may determine that a process other than the formal bid procedure set forth in Section

8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, by "accessing the terms" through the contract with the City of Sacramento, the purchase of this equipment will conform to MMC Section 8-3.204(d), and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes rejecting the sole bid received, due to the bid not being competitively priced based on similar contracts with public agencies within the State of California and authorize the purchase of fifteen (15) Crown Victoria Police Interceptor vehicles by "accessing the terms" of a competitively bid contract with the City of Sacramento, through Downtown Ford, Sacramento, CA, for a total estimated cost of $400,500.

BE IT FURTHER RESOLVED that the Purchasing Manager shall issue a purchase order by "accessing the terms" of the City of Sacramento contract for the Pubic Works Department, Fleet Services Division, to Downtown Ford, Sacramento, CA, for the total estimated cost of $400,500.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-412

RESOLUTION APPROVING AN AGREEMENT WITH HABITAT FOR HUMANITY, STANISLAUS, FOR COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) SET-ASIDE FUNDS, IN THE AMOUNT OF $196,611.75, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS

WHEREAS, the City of Modesto receives annual entitlements from the U.S. Department of Housing and Urban Development (HUD) based on the population size, number of households living below poverty level and number of sub-standard housing units; a percentage of the HOME Investment Partnership Program (HOME) entitlement plus estimated program income may be allocated for the purposes of providing assistance consistent with the functions of HOME funding, and

WHEREAS, Community Housing Development Organization (CHDO) funds can be allocated only to non-profit organizations that have been approved by the City of Modesto as CHDOs, and are active in Modesto and operating in compliance with the HOME regulations, and

WHEREAS, on May 24, 2005, by Resolution No. 2005-279, the City Council approved the City of Modesto draft 2005-2006 HUD Annual Action Plan, which included the allocation of $196,612 CHDO set-aside funds to cover the project costs of affordable housing and $65,537 in CHDO operating funds to assist with the operational costs of the organization; these funds are to be provided to an eligible CHDO; the City of Modesto currently has only three eligible and active CHDOs: Habitat for Humanity, Stanislaus, ACLC, Inc., and STANCO, and

WHEREAS, on October 28, 2005, the Citizens Housing and Community Development Committee (CH&CDC) approved staff recommendation to send a letter to the three active and

approved Community Housing Development Organizations (CHDOs) and invite them to submit a Letter of Interest if they are interested in applying for these funds, and

WHEREAS, letters inviting the three CHDOs to submit a Letter of Interest were sent to the CHDOs on January 10, 2006; all three CHDOs submitted letters of interest requesting the set-aside funds, the operating funds, or both; a review committee reviewed the CHDO letters and proposals, and presented a recommendation to the CH&CDC, and

WHEREAS, at the June 23, 2006, meeting, the CH&CDC recommended the allocation of $196,611.75 in CHDO set-aside funds to Habitat for Humanity, Stanislaus, to be utilized for predevelopment activities for the Hope Village project, and

WHEREAS, City staff has been working with Habitat for Humanity to develop new timelines since the scope and design of the project has changed; the timelines are based on the submission of a complete application for required zoning and a complete application for tentative subdivision map for the Hope Village project; these timelines have been submitted to the City by Habitat for Humanity on April 11, 2007, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on June, 23, 2006, and recommended to allocate the FY 2005-2006 HOME CHDO set-aside funds to Habitat for Humanity, Stanislaus, and

WHEREAS, Habitat for Humanity has not provided proof of insurance that meets the City of Modesto standards as outlined in the agreement for CHDO funds, and

WHEREAS, by a letter to Habitat for Humanity dated July 6, 2007, a copy of which is included herein as Exhibit "A" and incorporated by reference, City staff has stated its intention to recommend approval of the loan agreement for CHDO Set-Aside funds, with the full disclosure

that Habitat for Humanity has not met the requirement for acquiring or providing evidence of insurance meeting the City's standard requirements, and

WHEREAS, the recommendation for approval of the loan without meeting standard insurance requirements is due to the administrative nature of pre-development activities that will be funded by this loan, and

WHEREAS, this letter further states that City staff would not recommend consideration of this or any other development agreement for actual construction, rehabilitation or property development without evidence of insurance that meets all standard requirements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement with Habitat for humanity, Stanislaus for Community Housing Development Organization for (CHDO) funds in the amount of $196,611.75.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement and related documents.

BE IT FURTHER RESOLVED that any future agreement related to development will require that Habitat for Humanity meet all City Standard Insurance requirements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-413

RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2007-138 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO REVISE THE SALARY RANGES FOR DEPUTY CHIEF BUILDING OFFICIAL, CHIEF BUILDING OFFICIAL, JUNIOR CIVIL ENGINEER, JUNIOR TRAFFIC ENGINEER, ASSOCIATE CIVIL ENGINEER, ASSOCIATE TRAFFIC ENGINEER, SENIOR CIVIL ENGINEER, AND TRAFFIC ENGINEER AND AUTHORIZE REGISTERED ENGINEER PAY FOR DESIGNATED CLASSIFICATIONS

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2007-138, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2007-138. Exhibit "A" to Resolution No. 2007-138 entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective February 27, 2007," is hereby amended as shown on the amended Exhibit "A", which is attached hereto and made a part hereof. Said amended Exhibit "A" entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective June 12, 2007", changes the classifications of Junior Civil Engineer from Range 430 ($4543-$5536 mo) to Range 432 ($4773-$5816 mo), Junior Traffic Engineer from Range 430 ($4543-$5536 mo) to Range 432 ($4773-$5816 mo), Assistant Civil Engineer from Range 434 ($5015 -$6110 mo) to Range 436 ($5269-$6420 mo), Assistant Traffic Engineer from Range 434 ($5015 -$6110 mo) to Range 436 ($5269-$6420 mo), Associate Civil Engineer from Range 440 ($5816 -$7086 mo) to Range 443 ($6263- 7631 mo), Associate Traffic Engineer from Range 440 ($5816 -$7086 mo) to Range 443 ($6263-$7631 mo), Senior Civil Engineer from Range 447 ($6913-$8423 mo) to Range 450

($7445-$9071 mo), Traffic Engineer from Range 447 ($6913-$8423 mo) to Range 450 ($7445-$9071 mo), Deputy Chief Building Official from Range 444 ($6420-$7822 mo) to Range 446 ($6745-$8218 mo), Chief Building Official from Range 447 ($6913- $8423 mo) to Range 450 ($7445-$9071 mo), in the Class Range Table.

SECTION II. REGISTERED ENGINEER PAY. Effective June 12, 2007, those employees who possess a current registration as a Professional Civil Engineer in the State of California in the classification of Chief Building Official shall be eligible to receive 2.5% Registered Engineer Pay, and in the classification of Deputy Chief Building Official shall be eligible to receive 5% Registered Engineer Pay.

SECTION III. EFFECTIVE DATE. This resolution shall become effective on and after July 10, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective June 12, 2007

RANGE	TITLE
403	
407	Administrative Clerk II (Confidential) Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Administrative Technician (Confidential)
414	
415	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

Exhibit "A"

RANGE	TITLE
422	Office Supervisor
	Utility Dispatch Supervisor
	Workers' Compensation Claims Examiner I
	Systems Technician II
423	Custodian Supervisor
	Parking Services Supervisor
424	Assistant Planner
	Buyer
	Police Facilities Coordinator
425	Administrative Analyst I
426	Supervising Animal Control Officer
	Police Civilian Supervisor
	Stores Manager
	Systems Technician III
427	Assistant City Clerk/Auditor
	Legal Services Administrator
	Workers' Compensation Claims Examiner II
428	Accountant II (Represented)
	Senior Buyer
429	
430	Associate Planner
	Community Services Supervisor
	Events Coordinator
	Senior Crime Analyst
	Software Analyst I
431	Administrative Analyst II
	Assistant Risk Manager
	Budget Analyst I
	Personnel Analyst
	Recycling Program Coordinator
432	Communications Specialist

Exhibit "A"

RANGE	TITLE
	Compost Facility Supervisor
	Customer Services Supervisor
	Junior Civil Engineer
	Junior Traffic Engineer
	Neighborhood Preservation Supervisor
	Operations and Maintenance Supervisor
	Recreation Supervisor II
	Senior Accountant
	Water Quality Control Maintenance Supervisor
	Water Quality Control Operations Supervisor
433	Organizational Development Specialist
434	Budget Analyst II
	Environmental Laboratory Supervisor
	Operations Supervisor
	Regulatory Compliance Supervisor
	SCADA Supervisor
	Senior Community Development Program Specialist
	Senior Housing Rehabilitation Specialist
	Software Analyst II
	Supervising Accountant
	Systems Engineer I
435	Business Analyst
	Cultural Services Manager
	Emergency Medical Services Coordinator
	Integrated Waste Specialist
	Management Analyst
	Senior Personnel Analyst
	Weed and Seed Program Coordinator
436	**Assistant Civil Engineer**
	Assistant Traffic Engineer
	Electrical Supervisor
	Senior Planner
437	

Exhibit "A"

RANGE	TITLE
438	Budget Officer Events Supervisor Housing Program Supervisor Land Surveyor Property Agent Public Safety Business Services Analyst Senior Business Analyst Software Analyst III Systems Engineer II
439	Administrative Services Officer Community Facilities Districts Administrative Officer
440	Transportation Planner
441	Airport Manager Building Maintenance Superintendent Fleet Manager Housing and Urban Development Manager Parks Operations Superintendent Parks Planning and Development Manager Purchasing Manager Recreation Program Manager Streets Superintendent Urban Forestry Superintendent Wastewater Collections Superintendent Water Superintendent
442	Customer Services Division Manager Manager of Budget and Financial Analysis Software Analyst IV Supervising Building Inspector Supervising Construction Inspector Systems Engineer III
443	**Associate Civil Engineer** **Associate Traffic Engineer**

Exhibit "A"

RANGE	TITLE
444	Principal Planner Solid Waste Program Manager Transit Manager
445	Accounting Division Manager
446	**Deputy Chief Building Official** Information Technology Unit Manager Wastewater Treatment Plant Manager
447	Business Development Division Manager Planning Division Manager
448	
449	
450	**Chief Building Official** **Senior Civil Engineer** **Traffic Engineer**
451	
452	
453	
455	

Exhibit "A"

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-414

RESOLUTION AMENDING THE FISCAL YEAR 07-08 OPERATING BUDGETS OF VARIOUS FUNDS TO APPROPRIATE RESOURCES TO FINANCE THE COST OF VARIOUS SALARY ADJUSTMENTS NEGOTIATED FOR ENGINEERS AND BUILDING OFFICIALS FROM FUND RESERVES

WHEREAS, the City Council desires to make salary and benefit changes for engineering and building officials, and

WHEREAS, the FY 07-08 costs associated with these changes are estimated at $157,364, effective July 1, 2007, and

WHEREAS, $157,364 of these increased expenditures must be budgeted as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2007-08 Operating Budget is hereby amended as shown in Exhibit A.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Adoption of Salary Change-Civil Engineering & Traffic Engineering Series

Exhibit A

	FY 2007-2008 Cost Increase	
Fund	Title	
100	General Fund	$ 64,445
300	CIP Support Fund	$ 41,733
330	Developer Fund	$ 9,298
700	Gas Tax Fund	$ 15,476
2900	CFD Administration Fund	$ 9,291
6100	Water Fund	$ 17,121
Total		$ 157,364
the individual line items for salaries and benefits will be adjusted as needed		

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-415

RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classifications:

1. Water Distribution Operator I/II/III at salary range 116, 118, 124
2. Water Production Operator I/II at salary range 124, 128
3. Water Services Equipment Operator I/II at salary range 124, 128
4. Water Division Crewleader at salary range 132

The job specifications for these classifications are being created as a result of a compensation study of specified classifications. The job specifications for said classifications, as shown on the attached **Exhibit "A,"** which is hereby made a part of

this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION II. CLASSIFICATIONS AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise and re-title the job specifications for the following classifications:

1. Wastewater Treatment Plant Attendant to Wastewater Treatment Plant Operator I
2. Wastewater Treatment Plant Operator to Wastewater Treatment Plant Operator II
3. Wastewater Treatment Plant Relief Operator to Wastewater Treatment Plant Operator III

The Position Classification Plan of the City of Modesto is hereby amended to revise the job specifications for the following classifications:

1. Cross Connection Specialist
2. Water Conservation Specialist
3. Senior Wastewater Treatment Plant Operator
4. Building Inspector I/II
5. Equipment Mechanic
6. Heavy Equipment Mechanic
7. Equipment Mechanic Crewleader
8. Heavy Equipment Mechanic Crewleader

The job specifications for these classifications are being amended as a result of a compensation study of specified classifications. The job specifications for said

classifications, as shown on the attached **Exhibit "B,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION III. CLASSIFICATION DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the classification of Water Distribution System Operator, as said classification is no longer being used.

SECTION IV. EFFECTIVE DATE. This resolution shall become effective on and after July 10, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
No. 6702
No. 6701
No. 6700

July 2007

WATER DISTRIBUTION OPERATOR I
WATER DISTRIBUTION OPERATOR II
WATER DISTRIBUTION OPERATOR III

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

These three (3) classes comprise the Water Distribution Operator series. Under general supervision, incumbents perform duties that range from semi-skilled to skilled and involve the construction, maintenance, and repair of the City's water distribution system and the resolution of customer service issues. Depending upon the level of a particular position, incumbents must possess, or be in the process of obtaining, a Grade I, II, or III Water Distribution Operator Certificate issued by the State of California, Department of Health Services.

Positions allocated to this series are typically flexibly staffed to all three levels. Generally, employees may promote upward through the series as they meet the qualifications/certifications required by the higher-level class and have demonstrated proficiency in performing work at that level, subject to approval by management.

DISTINGUISHING CHARACTERISTICS

Water Distribution Operator I - This is the training level class in the Water Distribution Operator series. Incumbents in this class perform the more routine tasks and duties assigned to positions in the series while they are obtaining the skills, experience and qualifications required to perform the full range of duties. Since this is typically used as a training class, employees are required to have some general maintenance experience, but no specific experience pertaining directly to water distribution systems.

Water Distribution Operator II – This is the first working level class in the Water Distribution Operator series. This class can be distinguished from Water Distribution Operator I because incumbents in this class have the experience, qualifications and demonstrated proficiency required to perform moderately complex duties with some independence. This class can also be distinguished from Water Distribution Operator III because the latter is the journey-level class where incumbents have the experience, qualifications and demonstrated proficiency to perform the full range of skilled duties with substantial independence.

Water Distribution Operator III – This is the full journey-level class in the Water Distribution Operator series. In addition to being fully certified, incumbents at this level receive only occasional instruction as new or unusual situations arise, and they are fully

aware of the operating procedures and policies of the work unit. This class can be distinguished from Water Distribution Operator II because incumbents in the latter class are still developing the skills and qualifications necessary to perform the full range of journey-level duties and are not eligible to serve independently as shift operators. In contrast, a Water Distribution Operator III may serve as a shift operator and have direct charge of the operation of the water distribution system for a specified period of the day.

SUPERVISION RECEIVED AND EXERCISED

At all levels, incumbents receive general supervision from higher level supervisory and management staff. As both proficiency and qualifications are gained, incumbents are assigned more complex duties, which they are expected to perform with greater independence.

At the Water Distribution Operator II and III levels, incumbents may provide functional/technical direction or leadership to less experienced employees.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - *Essential and other important responsibilities may include, but are not limited to, the following:*

Essential Functions:

- Lay and fit pipelines; make water line taps; install water services, fire hydrants, blow-offs, valves, meters, vaults, boxes, and exercise valves; locate and mark services and mains for Underground Service Alerts.
- Flush water mains and services to maintain a safe, potable water system.
- Respond to emergencies including flood, line breaks and overflows; repair and restore systems as required.
- Respond to customer water problems including leaks, low water pressure, meter connects and disconnects, and unusual meter readings.
- Collect water samples from wells, mains and services for lab testing.
- Read and update water distribution maps and as-built plans and blueprints; analyze projected new routes.
- Identify and locate service and main leaks for heavy crews; operate pipe locators and gas-sensing equipment; install and inspect backflow devices; raise and maintain water meters above ground.
- Excavate trenches and install shoring; back fill trenches with proper material to

achieve correct compaction.

- Operate construction equipment and power tools such as dump trucks, front-end loaders, tampers, tap machines, pavement saws, cutting torches and welders.
- Operate hand-held and office computers to enter and retrieve data; prepare written and computerized records and reports; review reports for accuracy.
- Install street barricades, cones, flags and standards prior to the performance of construction and repair activities; direct and control traffic around work sites.
- Tactfully respond to requests and inquiries from customers of the water utility and from the general public.
- Identify equipment needs for each assigned project.
- Utilize proper safety precautions related to all work performed.
- Perform work in emergency situations as required.
- Perform standby/on-call duties as assigned and required.

Marginal Functions:

- Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

- Methods, techniques, and tools, and the operational characteristics of mechanical equipment used in the construction, maintenance and repair of water utility facilities and meters.
- Methods and procedures used in monitoring water systems.
- Practices for collection of water samples.
- Basic arithmetic principles.
- Potable water disinfection (chlorination) rules and regulations.
- Safe work practices.

Ability to:

- Perform skilled and semi-skilled maintenance, construction, and repair work in the area of work assigned.
- Communicate effectively with the public to resolve water service complaints.
- Handle contaminated materials and equipment.
- Identify equipment, tools and materials needed for each project.
- Fabricate tools and equipment if needed for projects.
- Identify possible or potential sources of contamination and how to deal with it to ensure a safe water system.
- Disassemble water meters, clean meter parts; reassemble meters; test and adjust meters; install and remove meters; check for proper operation of meters.
- Perform heavy manual labor, particularly as it pertains to the construction, maintenance and repair of water distribution systems.
- Understand and follow oral and written instructions.
- Work in confined areas.
- Work in deep trenches and follow trenching and shoring safety standards.
- Use and operate hand tools, mechanical equipment, power tools, and other equipment required for the work in a safe and efficient manner.
- Read and interpret basic maps and blueprints.
- Communicate effectively, both orally and in writing.
- Establish and maintain cooperative relationships with those contacted during the course of work.

EXPERIENCE, EDUCATION AND TRAINING GUIDELINES

Any combination of experience, education and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Water Distribution Operator I

Experience:

- Two years of increasingly responsible experience performing field maintenance duties, including at least one year at a level comparable to the class of Maintenance Worker II in the City of Modesto. Work experience within a municipal or private water utility is highly desirable.

Certificates

- Must obtain a Grade I Water Distribution Operator Certificate issued by the State of California, Department of Health Services within eighteen (18) months of appointment as a requirement of continued employment. Failure to obtain the required certificate may result in release from probation or termination.

- Must obtain a Grade II Water Distribution Operator Certificate issued by the State of California, Department of Health Services within thirty (30) months of appointment as a requirement of continued employment. Failure to obtain the required certificate may result in release from probation or termination.

Water Distribution Operator II

Experience:

- One year of increasingly responsible experience performing construction, maintenance and repair on water distribution facilities at a level comparable to the class of Water Distribution Operator I in the City of Modesto.

Certificate

- Must possess a Grade II Water Distribution Operator Certificate issued by the State of California, Department of Health Services.

Water Distribution Operator III

Experience:

- Two years of increasingly responsible experience performing construction, maintenance and repair on water distribution facilities, including one year at a level comparable to the class of Water Distribution Operator II in the City of Modesto.

Certificate

- Must possess a Grade III Water Distribution Operator Certificate issued by the State of California, Department of Health Services.

All Levels

Education:

- Equivalent to graduation from High School or possession of a G.E.D. certificate.

Licenses:

- Must possess and maintain a valid California driver's license.

Other Requirements:

- Possession of a Backflow Tester Certificate issued by the American Water Works Association (AWWA) is highly desirable.

- During the course of employment, may be required to attend and successfully complete training courses as needed to perform assigned duties, including First Aid and CPR.

WORKING CONDITIONS:

Environmental Conditions:

- Work is typically performed in a field environment that may require: travel from site to site; exposure to hot and cold temperatures, inclement weather, heavy traffic and other hazards; and working in confined spaces with potentially hazardous materials.

Physical Conditions:

- Essential and marginal functions may require: lifting/carrying objects of up to 100 pounds of weight; maintaining physical condition necessary for walking, standing for long periods of time and crawling; manipulation of hand tools; operating motorized equipment and vehicles.

Work Assignment:

- May be required to work evenings, weekends and holidays; may be required to work overtime and irregular hours in emergency situations.

CITY OF MODESTO July 2007
No. 6155
No. 6154

WATER PRODUCTION OPERATOR I
WATER PRODUCTION OPERATOR II

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

These two (2) classes comprise the Water Production Operator series. Under direction, incumbents perform advanced support duties pertaining to the distribution and treatment of the City's potable water system, and the skilled maintenance and repair of water distribution and treatment equipment/facilities. In addition to the required certificates in water distribution, incumbents must either possess, or be in the process of obtaining, an appropriate water treatment certificate issued by the State of California, Department of Health Services.

Positions allocated to this series are typically flexibly staffed to both levels. Generally, employees may promote from a Water Production Operator I to a Water Production Operator II when they meet the qualifications/certifications required by the higher-level class and have demonstrated proficiency in performing work at that level, subject top approval by management.

DISTINGUISHING CHARACTERISTICS

Water Production Operator I - This is the training level class in the Water Production Operator series. Incumbents in this class perform the more routine tasks and duties assigned to positions in the series while they are obtaining the skills, experience and qualifications required to perform the full range of duties. Incumbents must have substantial experience pertaining to the construction, maintenance and repair of water distribution systems, but need not have previous experience involving water treatment facilities and/or equipment.

Water Production Operator II – This is the full journey-level class in the Water Production Operator series. In addition to being certified to perform both water distribution and treatment duties, incumbents at this level receive only occasional instruction as new or unusual situations arise, and they are fully aware of the operating procedures and policies of the work unit. This class can be distinguished from Water Production Operator I because incumbents in the latter class are still developing the skills and qualifications necessary to perform the full range of journey-level duties assigned to positions in this series.

SUPERVISION RECEIVED AND EXERCISED

Water Production Operator I - Incumbents work under the general supervision of higher-level supervisory staff. Incumbents do not directly lead or supervise other employees.

Water Production Operator II - Incumbents work under the direction of higher-level supervisory staff. At this level, incumbents may provide functional/technical direction or leadership to less experienced employees.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

- Inspect, troubleshoot, repair, maintain and adjust wellhead water treatment units, storage reservoirs, and other water facilities, machinery and equipment including production pumps, chlorine injection pumps, sand separators, electric motors, equipment ventilation, motor controls, valves and electric generators; remove and reinstall well seals; install, maintain, and calibrate water meters, hypo chlorinators and on-line analyzers.

- Perform preventive maintenance checks and servicing on water system equipment; pack, lubricate, clean and paint pumping equipment and motors; inspect and calibrate gauges and meters; inspect and test air quality analyzers; develop maintenance schedules; coordinate emergency repair of systems as needed.

- Operate and maintain ion exchange, carbon filtering and other water treatment elements; inspect, troubleshoot, repair, maintain, sample and adjust the equipment as necessary through computer controlled interfaces; maintain and operate chemical feed systems and perform dosage computations; sample the product water and adjust the treatment process as required to maintain water quality standards.

- Check automated system (SCADA) parameters through onsite and remote interfaces in order to monitor and operate wells and treatment systems and to identify maintenance needs; enter data into the system at remote sites using micro-computer or other devices.

- Flush water lines, filters, fire hydrants, blow offs or other structures/systems as required.

- Collect regular and intermittent water samples from well sites, treatment plants and other systems access points as required by law; process samples for laboratory testing.

- Maintain accurate records pertaining to water sampling/testing, well production, flow rate and system pressure as required by law; operate, maintain and complete daily logs of emergency standby generators.
- Provide input on treatment facility construction; read and interpret blueprints; provide input on design blueprints and recommend changes before finalization.
- Respond to and investigate public concerns regarding water quality problems.
- Perform various skilled and semi-skilled plumbing, electrical, and carpentry duties as required; perform concrete repair including sawing, pouring, finishing and jack hammering; fabricate parts and equipment including mounts, brackets and shields; operate welding and cutting equipment;
- Help maintain an inventory of supplies, parts and equipment used in water service maintenance.

Marginal Functions:

- Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

- Principles, methods, materials, and tools employed in the repair and maintenance of pumps, motors, and related equipment.
- Principles and practices of hydraulics related to pumps and other water distribution equipment.
- Basic plumbing and electrical principles.
- Safety procedures for confined space entry.
- Practices and techniques of metal cutting and welding.
- Preventive maintenance and inspection methods.
- Appropriate safety practices and regulations.
- Supervisory Control and Data Acquisition (SCADA) computerized pump control systems.
- Water sampling methods.

- Confined space entry procedures.
- Water disinfection and chemical dosage requirements.
- Safety procedures in handling chemicals.
- Safe operation of cranes and/or other specialized equipment (with appropriate training).

Ability to:

- Independently perform a variety of skilled and complex repair, maintenance, servicing, and cleaning tasks involving pumps, motors, and computerized and pneumatic controls.
- Troubleshoot and diagnose malfunctions with pumping capacities, pneumatic controls and computerized controls, and determine effective course of action for correcting them.
- Operate and maintain a variety of equipment and tools in the performance of maintenance tasks; operate a portable sample pump; operate a steam cleaner; operate a mobile crane, if assigned.
- Keep detailed maintenance records.
- Read and interpret blueprints.
- Work in confined spaces.
- Understand and carry out oral and written directions.
- Establish and maintain effective working relationships with those contacted in the course of work.
- Perform standby duty as assigned.
- Spray pesticides, herbicides and insecticides in a safe manner and handle chemicals accordingly, as required.

EXPERIENCE, EDUCATION AND TRAINING GUIDELINES:

Any combination of experience, education and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Water Production Operator I

Experience:

- One year of experience performing water distribution system construction, maintenance and repair duties at a level comparable to a Water Distribution Operator II in the City of Modesto.

Certificates:

- Must possess a Grade III Water Distribution Operator Certificate issued by the State of California, Department of Health Services.
- Must obtain a Grade I Water Treatment Operator Certificate issued by the State of California, Department of Health Services within eighteen (18) months of appointment. Failure to obtain the required certificate may result in release from probation or termination.
- Must obtain a Water Sampling Certificate within twelve (12) months of appointment. Failure to obtain the required certificate may result in release from probation or termination.

Water Production Operator II

Experience:

- One year of experience performing specialized maintenance and repair duties involving both water distribution and treatment activities.

Certificates:

- Must possess a Grade III Water Distribution Operator Certificate issued by the State of California, Department of Health Services.
- Must possess a Grade I Water Treatment Operator Certificate issued by the State of California, Department of Health Services.
- Must possess a Water Sampling Certificate.

Both Levels

Education:

- Equivalent to a high school diploma or G.E.D. certificate.

Licenses/Certificates:

- Must obtain and maintain a valid Class B Commercial California Driver's license with appropriate endorsements within 45 days of appointment as a condition of continued employment. Failure to obtain the required license may result in release from probation or termination.

Other Requirements:

- Specialized training in the areas of mechanical maintenance and repair is highly desirable.

- During the course of employment, may be required to attend and successfully complete training courses as needed to perform assigned duties, including First Aid and CPR.

WORKING CONDITIONS

Environmental Conditions:

- Work is typically performed in a field environment that may require: travel from site to site; exposure to hot and cold temperatures, inclement weather, heavy traffic and other hazards; and working in confined spaces with potentially hazardous materials.

Physical Conditions:

- Essential and marginal functions may require: lifting/carrying objects of up to 75 pounds of weight; maintaining physical condition necessary for walking, standing for long periods of time and crawling; climbing and descending ladders; operating motorized equipment and vehicles.

Work Assignment:

- May be required to work evenings, holidays and weekends; may be required to work overtime and irregular hours in emergency situations.

CITY OF MODESTO July 2007
No. 6312
No. 6311

WATER SERVICES EQUIPMENT OPERATOR I
WATER SERVICES EQUIPMENT OPERATOR II

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

These two (2) classes comprise the Water Services Equipment Operator series. Incumbents operate light and/or heavy construction such as dump trucks, utility vehicles, backhoes, cranes, and other maintenance/transportation equipment in support of a variety of water distribution system activities and according to required standards. They also provide leadership, guidance and daily direction to water service crews at an assigned worksite and perform a wide variety of skilled maintenance tasks as assigned.

Both levels require incumbents to possess appropriate water distribution certificates upon hire. Incumbents at the Water Services Equipment Operator II level are fully trained and licensed to operate a wide range of equipment and perform the most advanced duties assigned to this series. If hired at the Water Services Equipment Operator I level, incumbents are given leadership and equipment operations training, and they must obtain specialized equipment operation licenses.

Positions allocated to this series are typically flexibly staffed to both levels. Generally, employees may promote from a Water Services Equipment Operator I to a Water Services Equipment Operator II when they meet the qualifications/licenses required by the higher-level class and have demonstrated proficiency in performing work at that level, subject to approval by management.

DISTINGUISHING CHARACTERISTICS

Water Services Equipment Operator I – This is the training level class in the Water Services Equipment Operator series. Incumbents in this class perform the more routine tasks and duties assigned to positions in the series while they are obtaining the skills, experience and qualifications required to perform the full range of duties. Incumbents must have substantial experience pertaining to the construction, maintenance and repair of water distribution systems, but may not initially have the specialized experience or licensing required for the operation of complex heavy equipment.

Water Services Equipment Operator II – This is the full journey-level class in the Water Services Equipment Operator series. In addition to having appropriate water distribution certificates, incumbents must possess specialized equipment licensing such as a California "Class A" driver's license and a crane operator's certificate. At this level, incumbents receive only occasional instruction as new or unusual situations arise, and

they are fully aware of the operating procedures and policies of the work unit. This class can be distinguished from Water Services Equipment Operator I because incumbents in the latter class are still developing the skills and qualifications necessary to perform the full range of journey-level duties assigned to positions in this series.

SUPERVISION RECEIVED AND EXERCISED

Water Services Equipment Operator I - Incumbents work under the general supervision of higher-level supervisory staff. Incumbents are trained to lead the daily activities of work crews on assigned projects.

Water Services Equipment Operator II - Incumbents work under the direction of higher-level supervisory staff. Incumbents provide on-site leadership, guidance and direction to work crews on assigned projects.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

- Operate heavy construction equipment such as backhoes, motor graders, large front-end loaders, and cranes for a variety of construction and maintenance operations involving potable water lines and related systems.
- Provide on-site lead leadership, guidance and direction to work crews on assigned projects.
- Break out and load asphalt and concrete onto large dump trucks.
- Expose and excavate water mains, distribution lines, valves, and other water distribution system infrastructure.
- Identify, plan and arrange for equipment needed for each assigned project.
- Perform minor repairs on equipment and report the need for major repairs; check and adjust fluid level; grease and lubricate moving parts as required.
- Perform daily DMV vehicle inspections; document and inspect equipment for safety and wear.
- Perform the full-range of water distribution system operation, construction and maintenance tasks when equipment is not in use.
- Respond to emergencies including flood, line breaks and overflows; repair and

restore systems as required.

- Provide training to lower level and/or less experienced employees.

Marginal Functions:

- Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

- The use, operation and maintenance requirements of a wide range of power-driven equipment including trucks, backhoes, loaders, and cranes.
- Principles, methods, materials, and tools employed in the construction, maintenance and repair of water distribution systems.
- Principles and practices of leadership, supervision and training, particularly as they apply to manual labor activities and construction/maintenance work crews.
- Traffic laws, ordinances, and rules involved in light and heavy equipment operations.
- Safe work practices; trench safety and shoring methods.
- Working in and around open trenches, traffic, construction equipment and utilities.
- Traffic control on construction sites.

Ability to:

- Operate a variety of light and heavy power-driven equipment.
- Locate utilities and be familiar with Underground Service Alert (U.S.A.) procedures.
- Lead, guide and direct the daily work of assigned crews at a project work site.
- Perform a variety of skilled construction and maintenance tasks.
- Load and transport equipment on trailers.

- Learn the geography, streets and water distribution infrastructure of an area, based on assignment.
- Work with and around hazardous materials specific to water systems and water treatment.
- Perform maintenance repair and installation of water system equipment and machinery.
- Read blue prints; participate in construction meetings.
- Perform maintenance on assigned equipment in an efficient, safe manner.
- Understand and follow oral and written instructions.
- Work independently or in a crew situation, as assigned.
- Set up and oversee construction sites at night, in adverse weather, or in emergencies.
- Establish and maintain cooperative-working relationships with those contacted in the course of work.

EXPERIENCE, EDUCATION AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Water Services Equipment Operator I

Experience:

- One year of experience performing journey-level water distribution system construction, maintenance and repair duties at a level comparable to or higher than a Water Distribution Operator II in the City of Modesto;

OR

- Two years of increasingly responsible experience performing maintenance and/or construction work involving the operation of light or medium equipment.

Licenses/Certificates:

- Must obtain a valid Class A commercial California driver's license, with specific endorsements required by the job duties, within 45 days of appointment. Failure to

obtain the required license may result in release from probation or termination.

- Must obtain a valid crane operator certificate, issued by the National Commission of Crane Operators, within twelve (12) months of appointment. Failure to obtain the required certificate may result in release from probation or termination.

- Must obtain a Water Sampling Certificate within twelve (12) months of appointment. Failure to obtain the required certificate may result in release from probation or termination.

Water Services Equipment Operator II

Experience:

- One year of responsible experience operating construction equipment and performing worksite leadership duties at a level comparable to or higher than Water Services Equipment Operator I in the City of Modesto;

OR

- Two years of experience performing journey-level water distribution system construction, maintenance and repair duties at a level comparable to or higher than a Water Distribution Operator II in the City of Modesto.

Licenses/Certificates:

- Must possess a valid Class A commercial California driver's license, with specific endorsements as required by the job duties.

- Must possess a valid crane operator certificate, issued by the National Commission of Crane Operators.

- Must possess a valid Water Sampling Certificate.

Both Levels

Education

- Equivalent to a high school diploma or G.E.D. certificate.

Certificate

- Must possess a Grade III Water Distribution Operator Certificate issued by the State of California, Department of Health Services.

Other Requirements:

- During the course of employment, may be required to attend and successfully complete training courses as needed to perform assigned duties, including First Aid and CPR.

WORKING CONDITIONS:

Environmental Conditions:

- Work is typically performed in a field environment that may require: travel from site to site; exposure to hot and cold temperatures, inclement weather, heavy traffic and other hazards; and working in confined spaces with potentially hazardous materials.

Physical Conditions:

- Essential and marginal functions may require: lifting/carrying objects of up to 100 pounds of weight; maintaining physical condition necessary for walking, standing for long periods of time and crawling; operating motorized equipment and vehicles.

Work Assignment:

- May be required to work evenings, weekends and holidays; may be required to work overtime and irregular hours in emergency situations.

WATER DIVISION CREW LEADER

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

This is a formal lead worker class. Under direction, incumbents coordinate, assign, train and provide broad field supervision to crews who perform duties pertaining to the construction, maintenance, repair and/or operation of the City's potable water system; plan and direct the work of skilled crews assigned to water distribution and treatment functions; oversee and participate in the use of complex construction equipment such as dump trucks, utility vehicles, backhoes, and cranes; and perform other related duties as assigned.

DISTINGUISHING CHARACTERISTICS

This is an advanced journey level/lead worker class. Depending upon assignment, incumbents may be assigned to either: 1) the Water Services unit where they oversee distribution system construction/maintenance/repair crews; or 2) the Water Operations unit where they oversee the work of Water Production Operators who perform advanced support duties pertaining to the distribution and treatment of the City's potable water system. Incumbents in this class are fully responsible for planning, leading and directing the work of one or more work crews on a regular and ongoing basis.

SUPERVISION RECEIVED AND EXERCISED

Incumbents work under the direction of higher-level supervisory staff. Although incumbents do not fully supervise other full-time employees, they do serve as full scope lead workers by planning, assigning, directing and monitoring the work of subordinate employees.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

- Serve as a lead worker over work crews involved in the construction, maintenance and/or operation of the City's potable water system.
- Assist supervisory and management staff with the design, planning, prioritizing, assignment and inspection of various maintenance, repair and construction projects.

- Provide feedback to supervisory and management staff regarding the field performance of crews for the purpose of evaluating employee performance.

- Assist in the development and monitoring the Division budget.

- Participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies through coaching.

- Serve as a technical resource regarding areas of assignment; answer questions and provide information to the public; investigate complaints and recommend corrective action as necessary to resolve complaints.

- Participate and encourage work unit participation in team building activities, including self-directed work teams.

- Maintain time, material and equipment use records; prepare various reports related to work activities including technical reports in response to regulatory activities.

- Prepare cost estimates; requisition supplies and materials needed for projects, ensuring that work crews have the materials and equipment needed to perform work activities.

- Perform safety inspections; prepare traffic plans and obtain necessary permits.

- Ensure that work activities adhere to environmental quality standards.

Marginal Functions:

- Perform standby duties as assigned.

If Assigned to Oversee Water Production Crews

- Serve as the water treatment Shift Operator as defined by the California Department of Health Services regulations.

- Lead and participate in the full-range of water distribution and treatment activities performed by Water Production Operators.

- Perform related duties as assigned.

If Assigned to Oversee Water Distribution Crews

- Lead and participate in the full-range of water distribution construction and maintenance activities, including the operation of heavy and light equipment as needed such as backhoes, loaders, dump trucks and cranes.

- Perform related duties as assigned.

If Assigned to Oversee Water Service Crews

- Lead and participate in the full-range of customer service and related maintenance activities, including service turn-ons/turnoffs, customer inquiries, hydrant repairs/replacements, meter testing and installations.

- Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

- Materials, methods, practices, equipment and elements of construction technology as they relate to water system construction, repair, maintenance and operations.

- Advanced principles and practices of employee supervision and leadership; safe work practices; regulatory safety programs and procedures.

- Pertinent sections of health, safety and labor codes.

- Basic principles and practices of budgeting and cost accounting.

- Standard business computer operations including commonly used word processing, spreadsheet and database software.

- Principles, methods, materials, and tools employed in the repair and maintenance of pumps, motors, and related equipment.

- Principles and practices of hydraulics related to pumps and other water distribution equipment.

- Supervisory Control and Data Acquisition (SCADA) computerized pump control systems.

- Basic plumbing and electrical principles.

- Practices and techniques of metal cutting and welding.
- Preventive maintenance and inspection methods.
- Water sampling methods; water disinfection and chemical dosage requirements.
- Confined space entry procedures.
- Safety procedures in handling chemicals.
- The use, operation and maintenance requirements of a wide range of power-driven equipment including trucks, backhoes, loaders, and cranes.
- Traffic laws, ordinances, and rules involved in light and heavy equipment operations.
- Working in and around open trenches, traffic, construction equipment and utilities.
- Traffic control on construction sites.

Ability to:

- Plan, estimate, direct, coordinate, schedule and review the work of others; use "lead by example" methodology.
- Keep records and prepare reports.
- Coordinate work assignments with other divisions, departments, agencies and external groups.
- Operate personal computer hardware and software.
- Independently perform a variety of skilled and complex repair, maintenance, servicing, and cleaning tasks involving pumps, motors, and computerized and pneumatic controls.
- Troubleshoot and diagnose malfunctions with pumping capacities, pneumatic controls and computerized controls, and determine effective course of action for correcting them.
- Read and interpret blueprints.
- Work in confined spaces.
- Operate a variety of light and heavy power-driven equipment.

- Locate utilities and be familiar with Underground Service Alert (U.S.A.) procedures.
- Perform a variety of skilled construction and maintenance tasks.
- Load and transport equipment on trailers.
- Perform standby duty as assigned.
- Spray pesticides, herbicides and insecticides in a safe manner and handle chemicals accordingly, as required.
- Communicate effectively, both orally and in writing.
- Establish and maintain effective working relationships with those contacted in the course of work.

EXPERIENCE, EDUCATION AND TRAINING GUIDELINES:

Any combination of experience, education and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

- One year of specialized experience at a level equivalent to Water Production Operator II in the City of Modesto.

OR

- One year of specialized experience at a level equivalent to Water Systems Equipment Operator II in the City of Modesto.

OR

- Three years of responsible experience involving water distribution system construction, maintenance and repair at a level equivalent to Water Distribution Operator II in the City of Modesto.

Education:

- Equivalent to a high school diploma or G.E.D. certificate.

Certificates:

All Positions

- Must possess a Grade III Water Distribution Operator Certificate issued by the State of California, Department of Health Services.

- Must obtain a valid Class B Commercial California Driver's license with appropriate endorsements within 45 days of appointment. Failure to obtain the required license may result in release from probation or termination.

If Assigned to Oversee Water Production Crews

- Must possess a Grade II Water Treatment Operator Certificate issued by the State of California, Department of Health Services.

- Must possess a Water Sampling Certificate.

If Assigned to Oversee Water Distribution Crews

- Must obtain a valid Class A commercial California driver's license, with specific endorsements as required by the job duties within 45 days of appointment. Failure to obtain the required license may result in release from probation or termination.

- Must possess a valid crane operators certificate, issued by the National Commission of Crane Operators

Other Requirements:

- During the course of employment, may be required to attend and successfully complete training courses as needed to perform assigned duties, such as First Aid and CPR.

WORKING CONDITIONS

Environmental Conditions:

- Work is typically performed in both an office and a field environment that may require: travel from site to site; exposure to hot and cold temperatures, inclement weather, heavy traffic and other hazards; and working in confined spaces with potentially hazardous materials.

Physical Conditions:

- Essential and marginal functions may require: lifting/carrying objects of up to 75 pounds of weight; maintaining physical condition necessary for walking, sitting and standing for long periods of time and crawling; operating motorized equipment and vehicles.

Work Assignment:

- May be required to work evenings, weekends and holidays; may be required to work overtime and irregular hours in emergency situations.

CITY OF MODESTO July 2007
No. 6450
No. 6445
No. 6444

WASTEWATER TREATMENT PLANT OPERATOR I
WASTEWATER TREATMENT PLANT OPERATOR II
WASTEWATER TREATMENT PLANT OPERATOR III

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

These three (3) classes comprise the Wastewater Treatment Plant Operator series. Under immediate (Wastewater Treatment Plant Operator I) to general (Wastewater Treatment Plant Operator II/III) supervision, incumbents perform duties that range from semi-skilled to skilled and involve the operation, maintenance and repair function of the Water Quality Control division. Depending upon the level of a particular position, incumbents must possess, or be in the process of obtaining, a Grade I, II, or III Wastewater Treatment Plant Operator Certificate issued by the State of California.

Positions allocated to this series are typically flexibly staffed to all three levels. Generally, employees may promote upward through the series as they meet the qualifications/certifications required by the higher-level class and have demonstrated proficiency in performing work at that level, subject to approval by management.

DISTINGUISHING CHARACTERISTICS

Wastewater Treatment Plant Operator I - This is the entry and training level class in the Wastewater Treatment Plant Operator series. Incumbents in this class perform the more routine tasks and duties assigned to positions in the series while they are obtaining the skills, experience and qualification required to perform the full range of duties. Since this is typically used as a training class, employees are required to have some general maintenance experience, but no specific experience pertaining directly to wastewater treatment systems.

Wastewater Treatment Plant Operator II - This is the first working level class in the Wastewater Treatment Plant Operator series. This class can be distinguished from the Wastewater Treatment Plant Operator I because incumbents in this class have the experience, qualifications and demonstrated proficiency to perform moderately complex duties with some independence. This class can also be distinguished from the Wastewater Treatment Plant Operator III because the latter is the full journey level class where incumbents have the experience, qualifications and demonstrated proficiency to perform the full range of skilled duties with substantial independence.

Wastewater Treatment Plant Operator III - This is the full journey-level class in the Wastewater Treatment Plant Operator series. In addition to being fully certified, incumbents at this level receive only occasional instruction as new or unusual situations arise, and they are fully aware of the operating procedures and policies of the work unit. This class can be distinguished from Wastewater Treatment Plant Operator II because incumbents in the latter class are still developing the skills, experience, qualifications and certifications necessary to perform the full range of journey-level duties.

SUPERVISION RECEIVED AND EXERCISED

Incumbents receive immediate (Wastewater Treatment Plant Operator I) to general (Wastewater Treatment Plant Operator II/III) supervision from higher level supervisory and management staff. As both proficiency and qualifications are gained, incumbents are assigned more complex duties, which they are expected to perform with greater independence.

At the Wastewater Treatment Plant Operator II and III levels, incumbents may provide functional/technical direction or leadership to less experienced employees.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Note that positions allocated to the Wastewater Treatment Plant Operator I level would be performing duties in a learning and training capacity.

- Monitor the operation of wastewater treatment plant pumps, motors, and other equipment; read gauges, dials and other instruments that record data; maintain and update accurate logs of plant operations.

- Service and otherwise maintain a variety of plant equipment including pumps, valves, motors, filters, meters, and related plant equipment; grease, lubricate, pack, and change belts on engines and pumps.

- Make calculations to determine if plant is operating correctly and effectively; make necessary adjustments to maintain chemical balances and flow requirements; adjust treatment plant equipment to obtain maximum efficiency and treatment results.

Essential Functions: (Continued)

- Collect various water and sewage samples for laboratory tests; on occasion may perform some of the more routine laboratory analyses.
- Inspect wastewater treatment plant equipment and facilities to locate needed repairs to various plant equipment; may perform general plant maintenance work.
- Load and unload chlorine cylinders; hook up and test; repair cylinder if necessary.
- Check equipment such as generators, chlorinators, air and gas circulators, screens, and grinders for proper operation.
- Change chlorine tanks; clean plugged lines.
- Maintain and repair sprinkler systems.
- Take weather station readings; record information.
- Keep logs and records on maintenance performed.
- Load and unload equipment and materials; use forklift if necessary.
- Remove sludge from drying beds; dispose of properly.
- Use and maintain self-contained breathing apparatus as required.
- Dig ditches for laying conduit, pipe, air lines; assist in the plumbing and pipe fitting.
- Marginal Functions:
- May paint plant equipment and building; hose down and clean various areas of the plant.
- May participate in carpentry and cement work.
- May provide training to other wastewater treatment plant staff.
- May conduct plant tours.
- Perform related duties as assigned.

QUALIFICATIONS

Wastewater Treatment Plant Operator I/II/III (Incumbents at the I level would be in a learning capacity for these knowledge and ability requirements)

Knowledge of:

- Operations, services and activities of a wastewater treatment plant.
- Operational characteristics of equipment and materials used in a wastewater treatment plant including pumps, valves and motors.
- Principles, methods and tools employed in the general operation and maintenance of engines, pumps and related equipment.
- Principles and practices of wastewater treatment plant operations.
- Wastewater discharge requirements.
- Principles and practices of wastewater treatment processes.
- General maintenance work.
- Safe handling techniques for materials and equipment used in wastewater treatment.
- As assigned, principles of lead supervision and training
- Principles and methods of bacteriological and chemical sewage analyses.
- Wastewater discharge requirements.
- Grit disposal methods.
- Modern office equipment including computers and specialized software

Ability to:

- Operate, repair, and maintain wastewater treatment plant equipment.
- Read and interpret gauges and other recording devices reflecting wastewater treatment plant operations.
- Take wastewater and sludge samples and perform routine laboratory tests.
- Perform general maintenance and servicing work in the City's wastewater treatment plant facilities.

Ability to (continued)

- Use and maintain self-contained breathing apparatus (safety mask), per annual physical examination.
- Keep logs, records and maintain reports.
- Perform heavy manual labor, including but not limited to lifting and carrying up to fifty (50) pounds of weight, climbing, bending, stooping, etc.
- Use and maintain self-contained breathing apparatus.
- Understand and carry out verbal and written directions.
- Work irregular work shifts.
- Communicate clearly and concisely, both verbally and in writing.
- Establish and maintain cooperative, working relationships with those contacted in the course of work.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Wastewater Treatment Plant Operator I/II/III

Training:

- Formal or informal education or training which ensures the ability to read and write at a level necessary for successful job performance.

License or Certificate

- Possession of, or ability to obtain, an appropriate, valid California driver's license.

Wastewater Treatment Plant Operator I

Experience:

- Experience in wastewater treatment plant operations desirable, but not required.

License or Certificate:

- Must possess an Operator-in-Training certificate issued by the State of California.
- A Grade I Wastewater Treatment Plant Operator certificate issued by the State of California must be obtained no later than one year from the date of appointment. Failure to obtain the required certificate may result in release from probation or termination.

Wastewater Treatment Plant Operator II

Experience:

- One year of experience in wastewater treatment plant operations.

License or Certificate

- Must possess a valid Grade II Wastewater Treatment Plant Operator Certificate issued by the State of California.

Wastewater Treatment Plant Operator III

Experience:

- A minimum of two years experience in wastewater treatment plant operations.

License or Certificate:

- Must possess a valid Grade III Wastewater Treatment Plant Operator Certificate issued by the State of California.

WORKING CONDITIONS

Environmental Conditions:

- Treatment plant environment; exposure to heavy machinery and treatment chemicals; field environment; travel from site to site.

Physical Conditions:

- Essential and marginal functions may require performing heavy manual labor, including but not limited to lifting and carrying up to fifty (50) pounds of weight; climbing, bending, stooping, etc. and maintaining physical condition necessary for walking or standing for prolonged periods of time; operating motorized equipment and vehicles.

CITY OF MODESTO
No. 6160

July 2007

CROSS CONNECTION SPECIALIST

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

~~To inspect cross connection devices and to inspect, test and certify backflow prevention devices; to read, repair and maintain water meters; and to perform related duties as required.~~

Under direction, plans, coordinates and administers various day-to-day activities pertaining to the City's Cross Connection Control Program; coordinates, monitors and performs cross connection control activities, including the inspection, testing and certification of backflow prevention devices; maintains the City's backflow prevention device database; investigates and identifies compliance issues; communicates with regulatory agencies as required; and performs related duties as required.

SUPERVISION RECEIVED AND EXERCISED

~~Receives general supervision~~The incumbent receives direction from higher-level supervisory staff. ~~Exercises technical supervision over lower level maintenance staff.~~ Although the incumbent does not fully supervise other full time staff, duties may include training, assigning, directing and monitoring the work of subordinate employees on a project or assignment basis.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

- ~~Administer~~ Coordinate and administer the City's Cross Connection Control Program
- Enforce public health regulations relating to backflow and cross connection control within the City of Modesto's water distribution system.
- Conduct cross connection surveys and inspections in order to identify water user premises where cross connections are likely to occur.

~~Inspect premises for cross connections and certify backflow preventers on new construction or remodels when building permits are issued.~~

~~Provide information to contractors, architects and engineers, concerning the City's Cross Connection program.~~

- Develop and maintain an annual backflow testing and maintenance schedule and

monthly notification program; coordinate the testing, maintenance and repair of backflow prevention devices; communicate with testing contractors to investigate devices that have failed or have not been tested; issue letters and initiate water shut off procedures as necessary.

- Inspect premises for cross connections; certify backflow prevention devices on new construction or remodels when building permits are issued.

- Provide information concerning the City's Cross Connection Control Program to others, including other City departments, governmental agencies, contractors, architects and engineers.

- Maintain the City of Modesto list of certified backflow assembly testers.

- ~~Maintain~~ Using specialized computer software, maintain accurate records of backflow ~~preventer~~prevention device locations, testing~~ and~~, repairs~~.~~ and other information.

~~Maintain annual backflow testing and maintenance schedule with monthly notification program.~~

- Test, maintain and repair backflow ~~preventers~~prevention devices on ~~city~~City property and buildings.

- Troubleshoot and respond to complaints on backflow ~~preventers~~prevention devices within the ~~city's~~ City's water distribution system~~.~~; meets with customers to discuss their backflow prevention needs and contact them when upgrades are needed.

- Collect data and maintain files on destroyed wells.

- Inspect water tank trucks to ensure that the trucks have proper air-gap separations~~. Maintain~~ and maintain appropriate records~~ on water trucks relating to its holding capacity in gallons and air gap separation.~~.

- Meet with the State Health Inspector ~~yearly~~as needed for review and audit of the City's ~~cross connection and backflow program. **Hydrant Meter**~~Cross Connection Control Program~~ **Duties**~~.

- ~~Issue~~ May issue water hydrant permits and help enforce the hydrant meter program~~.~~

~~Maintain records of repairs, maintenance and calibration of hydrant meters.~~

~~Obtain hydrant meter readings for billing.~~

- ~~Repair~~; May help read, repair and test hydrant meters.

~~**Subdivision Meter Program Duties**~~

~~Repair and maintain meter and check valve assembly.~~

~~Other Duties~~

~~Work as Maintenance Mechanic – Pumps, if needed.~~

~~Operate water automation control board.~~

~~Obtain water samples.~~

~~Weld and fabricate.~~

Marginal Functions:

- Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

- Inspection, testing, repair and certification of cross connection control devices including backflow prevention devices~~,~~ and those pertaining to water meters, motors, and pumps.

  ~~Inspection and testing of cross connection devices.~~

- Principles, practices, tools, equipment and parts used in the testing, maintenance and repair of backflow prevention and related devices~~, water meters and lift stations~~.

- Municipal water system and water service components.

- Pertinent state, federal and local laws, codes and regulations.

- Pertinent safety principles and practices including working in confined spaces.

- Principles and practices of electricity~~,~~ and hydraulics~~, metal cutting and welding~~.

- Basic mathematics.
- Basic writing skills including grammar, punctuation, and spelling.

Ability to:

- Perform a variety of skilled and complex work in the repair, testing, and certification of cross connection control and backflow prevention devices in accordance with ~~state, county and city~~State, County and City ordinances and regulations.
- ~~Perform skilled and~~ Work independently.
- ~~Maintain~~ complex ~~work in the inspection, diagnosis, repair and maintenance of cross connection devices, meters, pumps, motors,~~ manual and computerized ~~and pneumatic controls.~~

  ~~Work independently.~~
- ~~Maintain~~ records and prepare reports.
- Understand and carry out oral and written instructions.
- Establish and maintain effective working relationships with others.
- Communicate effectively both orally and in writing.
- Tactfully deal with the public.
- Enforce regulations relating to cross connection control and backflow devices.
- Perform medium-heavy manual labor, including lifting and carrying up to 75 pounds.
- Read and interpret blueprints.
- Work in confined spaces.

Experience, Education and Training Guidelines:

Experience:

- ~~Two years experience equivalent to Water Distribution System Operator (formerly Meter Reader/Repair or Water Lineworker) or 1 year of experience in the inspection~~ Two (2) years of

experience performing water system construction, maintenance, repair and operation duties at a level equivalent to or higher than Water Distribution Operator II in the City of Modesto;

OR

- One (1) year of experience with responsibility for the inspection, repair and maintenance of backflow prevention devices. ~~Three to six months~~Some experience in program administration is desirable.

Education and Training:

- ~~Equivalent to completion of twelfth grade supplemented by specialized training in the areas of mechanical maintenance and repair.~~ Equivalent to a high school diploma or G.E.D. certificate.

~~License or Certificate~~

- ~~Possession of, or ability to obtain, an appropriate,~~

Licenses or Certificates:

- Must possess and maintain a valid California driver's license.
- ~~Possession of an American Water Works Association (AWWA)~~Must possess a Grade III Water Distribution Operator Certificate issued by the State of California, Department of Health Services.
- Must possess a Backflow Prevention Assembly Tester's Certificate~~.~~ from the American Water Works Association (AWWA).
- Must possess a Cross Connection Control Specialist ~~License or~~ Grade I Certificate ~~Possession of an~~from the American Water works Association (AWWA) ~~Cross Connection Control Specialist Grade I Certification.~~).

Other Requirements:

- During the course of employment, may be required to attend and successfully complete training courses as needed to perform assigned duties, including First Aid and CPR.

WORKING CONDITIONS

Environmental Conditions:

- Work is typically performed in both an office and a field environment that may

require: travel from site to site; exposure to hot and cold temperatures, inclement weather, heavy traffic and other hazards; and working in confined spaces with potentially hazardous materials.

Physical Conditions:

- Essential and marginal functions may require: lifting/carrying objects of up to 75 pounds of weight; maintaining physical condition necessary for walking, sitting and standing for long periods of time and crawling; operating motorized equipment and vehicles and a personal computer.

Work Assignment:

- May be required to work evenings, weekends and holidays; may be required to work overtime and irregular hours in emergency situations.

WATER CONSERVATION SPECIALIST

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

~~DEFINITION:~~
~~Plans, organizes, develops, promotes,~~
DEFINITION

Under direction, plans, coordinates and ~~manages~~administers various day-to-day activities pertaining to the ~~City of Modesto's~~City's Water Conservation Program~~.~~

~~SUPERVISION RECEIVED AND EXERCISED:~~
~~Receives general supervision from~~ ; promotes the ~~Water Superintendent.~~

~~ESSENTIAL AND MARGINAL FUNCTION STATEMENTS:~~
~~Essential and other important responsibilities and duties may include, but are not limited to the following:~~

~~Essential Functions:~~

~~Administer the City's Water Conservation Program.~~

~~Provide water conservation educational opportunities to schoolchildren and the general public.~~

~~Train and direct activities of~~ efficient use of the City's water supply by residential, irrigation, industrial, commercial public agencies and other customers to ensure sufficient pressure throughout the system for fire protection and other ~~staff assigned to water conservation functions.~~

~~Provide water conservation information to residents, commercial businesses, and others.~~

~~Coordinate the development of uniform conservation policies and enforcement.~~

~~Evaluate and provide input regarding internal water conservation efforts such as metering, meter testing, system leak detection and management.~~

~~Manage computer software for irrigation control purposes.~~

~~Develop and implement incentives to alter water use practices.~~

~~both internal and external customers.~~

~~Maintain accurate records.~~

~~Essential Functions, Continued:~~

~~Prepare and administer budget for program activities.~~

~~Perform activities of Water Distribution System Operator, if needed.~~

~~Marginal Functions:~~

~~Performs other~~ essential City services; investigates and identifies compliance issues; communicates with regulatory agencies as required; and performs related duties as required.

SUPERVISION RECEIVED AND EXERCISED

The incumbent receives direction from higher-level supervisory staff. Although the incumbent does not fully supervise other full time staff, duties may include training, assigning, directing and monitoring the work of subordinate employees on a project or assignment basis.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

- Plan, coordinate and administer the City's Water Conservation Program; enforce State requirements pertaining to water conservation within the City of Modesto's water distribution system.

- Provide water conservation education opportunities to schoolchildren and the general public; develop and present information in a positive way that encourages interest and participation, provide water conservation information to residents, commercial businesses, and others.

- Identify and evaluate options for ensuring efficient use of the City's water supply; develop conservation methods; identify methods of monitoring and measuring use; determine potential penalties and motivation techniques.

- Coordinate and propose the development of uniform conservation policies and enforcement methods; evaluate and provide input to management regarding internal water conservation efforts such as metering, meter testing, system leak detection and management; develop and implement incentives to alter water use

practices.

- Develop, recommend and maintain various media sources for providing conservation information to both internal and external customers.
- Coordinate studies pertaining to water use; gather, analyze and interpret data; write and present technical reports and documents.
- Plan, develop and recommend customer incentives to alter water use; develop time schedules and implementation strategies.
- Develop and administer program budgets
- Evaluate the efficiency of program activities; recommend changes and adjustments to better achieve goals and objectives.
- Assign, train, direct and monitor the activities of subordinate staff assigned to water conservation functions.
- Administer specialized computer software pertaining to irrigation control and other water conservation purposes.
- Maintain accurate records.
- If assigned, may perform the duties of a Water Distribution Operator.

Marginal Functions:

- Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

- Water conservation methods and practices.
- Municipal water system and water service components.
- Pertinent state, federal~~,~~ and local laws, codes~~,~~ and regulations.
- Principles of communication and public speaking.
- Basic mathematics.
- Basic writing skills including proper grammar, punctuation~~,~~ and spelling.

Ability to:

- Perform a variety of skilled and complex assignments in the water conservation area in accordance with state, county, and city ordinances and regulations.
- Work independently.
- Maintain complex manual and computerized records and prepare reports.
- Communicate effectively, both orally and in writing.
- Understand and carry out oral and written instructions.
- Establish and maintain effective working relationships with others.
- Tactfully deal with the public.
- Enforce regulations relating to water conservation rules and practices.
- Perform medium manual labor, including lifting and carrying up to 50 pounds.
- Read and interpret blueprints.
- Work in confined spaces.

~~Establish and maintain relationships with the community members, coworkers and others contacted in the course of work demonstrating teamwork and cooperation.~~

Experience, Education and Training Guidelines:

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

- Two (2) years of increasingly responsible experience in the water management field involving irrigation controls, water metering or other similar functions. Experience with a municipal or private water utility is highly desirable.

Training:

- ~~Equivalent to completion of the twelfth grade.~~Equivalent to a high school diploma or G.E.D. certificate. Additional specialized training in the water management field is highly desirable.

~~License~~Licenses or Certificate~~:~~s

- ~~Possession of, or the ability to obtain, an appropriate~~Must possess and maintain a valid California ~~drivers~~driver's license.

- ~~Possession of an American Water Works Association (AWWA) Grade I Water Distribution System Operator certificate is required by time of appointment~~Must possess a Grade I Water Distribution Operator Certificate issued by the State of California, Department of Health Services.

- ~~Possession of an American Water Works Association (AWWA)~~Must obtain a Grade II Water Distribution ~~System~~ Operator ~~certificate~~ Certificate issued by the State of California, Department of Health Services within ~~two years~~eighteen (18) months of appointment as a requirement of continued employment. Failure to obtain the required certificate may result in release from probation or termination.

Other Requirements:

- During the course of employment, may be required to attend and successfully complete training courses as needed to perform assigned duties, including First Aid and CPR.

WORKING CONDITIONS:

Environmental Conditions:

- ~~Field~~Work is typically performed in both an office and a field environment~~;~~ that may require: travel from site to site; exposure to hot and cold temperatures~~;~~, inclement weather, heavy traffic and other hazards; and working in confined spaces with potentially hazardous materials.

Physical Conditions:

- Essential and marginal functions may require: lifting/carrying objects of up to 50 pounds of weight; maintaining physical condition necessary for walking or standing for prolonged periods of time; operating motorized equipment and vehicles; and using a personal computer.

Work Assignment:

- May be required to work evenings, weekends and holidays; may be required to work overtime and irregular hours in emergency situations.

CITY OF MODESTO July 2007
No. 6440

SENIOR WASTEWATER TREATMENT PLANT OPERATOR

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

DEFINITION

To perform lead operations of a primary and secondary wastewater treatment facility to ensure effective treatment of domestic and industrial wastewater; and to maintain discharge quality in accordance with State and Federal requirements.

~~SUPERVISION RECEIVED AND EXERCISED~~

~~Receives direction from the Wastewater Treatment Plant Operator Supervisor.~~

~~Exercises technical supervision over plant operators and attendants.~~

DISTINGUISHING CHARACTERISTICS:

Act as a shift supervisor or collaboratively with other senior operators, as defined by the State Water Resources Control Board, California Code of Regulations, Title 23: a certified operator who oversees and directs the operation or a phase of operation of a wastewater treatment plant during a specific work period and who reports to a supervisor or a chief plant operator.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from higher level supervisory and management staff.

Exercises technical supervision over plant operators and attendants.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - *Essential and other important responsibilities may include, but are not limited to, the following:*

Essential Functions:

- Monitor the operation of wastewater treatment plant pumps, motors, and other equipment; read gauges, dials and other instruments; maintain and update accurate plant operational data and logs.

- Make calculations to determine if plant is operating correctly and effectively; make necessary adjustments to maintain chemical balances and flow requirements;

adjust treatment plant equipment to obtain maximum efficiency and treatment results.

- Service and perform basic maintenance on a variety of plant equipment including pumps, valves, motors, filters, meters, and related plant equipment.

- Collect required wastewater samples for laboratory tests; on occasion may perform some routine laboratory analyses.

- Inspects wastewater treatment plant equipment and facilities to locate needed repairs to plant equipment; performs general plant maintenance work.

- ~~Inputs~~Enter required data into a variety of logs and spreadsheets; prepares daily treatment plant logs; ~~identifies~~identify equipment status and lab sampling schedules.

- Conduct tours of the treatment plant to visitors, civic organizations and other interested parties.

- May assign work and provide training to other wastewater treatment plant staff.

- Monitor City collection system lift station and water system SCADA and display for alarms; notify response team to correct problem; coordinate with collection system lift station via phone and radio.

- May be required to work irregular shifts.

Marginal Functions:

- Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

- Principles and practices of wastewater treatment plant operations.

- Operating principles of valves, pumps, and motors.

- Principles and methods of bacteriological and chemical wastewater analyses.

- Wastewater discharge requirements.

- SCADA systems.

- Safe work practices.

Ability to:

- Use and maintain self-contained breathing apparatus (safety mask) per annual physical examination.
- Perform heavy manual labor, including but not limited to lifting and carrying seventy-five (75) pounds of weight, climbing, bending, stooping, etc.
- Operate, repair, and maintain wastewater treatment plant equipment.
- Read and interpret gauges and other recording devices reflecting wastewater treatment plant operations.
- Take wastewater samples and perform some routine laboratory tests.
- Diagnose operating problems and take effective courses of action.
- Make independent technical decisions to maintain proper treatment process.
- Keep records and maintain reports.
- Understand and carry out verbal and written instructions.
- Train and supervise assigned staff.
- Work irregular work shifts.
- Communicate clearly and concisely, both verbally and in writing.
- Establish and maintain cooperative working relationships with those contacted in the course of work.
- Maintain mental capacity which allows the capability of making sound decisions and demonstrating intellectual capabilities.

~~Use and maintain self-contained breathing apparatus (safety mask) per annual physical examination.~~

~~Perform heavy manual labor, including but not limited to lifting and carrying seventy-five (75) pounds of weight, climbing, bending, stooping, etc.~~

~~Operate, repair, and maintain wastewater treatment plant equipment.~~

~~Read and interpret gauges and other recording devices reflecting wastewater treatment plant operations.~~

~~Take wastewater samples and perform some routine laboratory tests.~~

~~Diagnose operating problems and take effective courses of action.~~

~~Make independent technical decisions to maintain proper treatment process.~~

~~Keep records and maintain reports.~~

~~Understand and carry out oral and written instructions.~~

~~Train and supervise assigned staff.~~

~~Work irregular work shifts.~~

~~Communicate clearly and concisely, both orally and in writing.~~

~~Establish and maintain cooperative working relationships with those contacted in the course of work.~~

~~Maintain mental capacity which allows the capability of making sound decisions and demonstrating intellectual capabilities.~~

- Maintain physical condition appropriate to the performance of assigned duties and responsibilities.

- Maintain effective audio-visual discrimination and perception needed for making observations, communicating with others, reading, writing and operating assigned equipment.

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

- Two years experience in wastewater treatment plant operations.

Training:

- Equivalent to the completion of the twelfth grade.

License or Certificate

- Possession of, or ability to obtain, an appropriate, valid California driver's license.
- Possession of a valid Grade III certificate from the California State Water Resources Control Board.

WORKING CONDITIONS

Environmental Conditions:

- Field environment; travel from site to site. Exposure to hot and cold temperatures; inclement weather; exposure to hazards in confined spaces with possible hazardous materials.

Physical Conditions:

- Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; operating motorized equipment and vehicles.

CITY OF MODESTO
No. 3236
No. 3235

July 2007
~~AUGUST 2004~~

Building Inspector I
Building Inspector II

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To perform a variety of residential and commercial building inspection duties at various stages of construction, alteration and repair; to maintain a variety of inspection related records; and to provide information and assistance to the public.

DISTINGUISHING CHARACTERISTICS

Building Inspector I - This is the entry level class in the Building Inspector series. This class is distinguished from the Building Inspector II by the performance of the more routine tasks and duties assigned to positions within the series ~~including inspections and the issuance of permits.~~. Since this class is typically used as a training class, employees may have only limited related work experience.

Building Inspector II - This is the full journey level class ~~with~~in the Building Inspector series. Employees within this class are distinguished from the Building Inspector I by the performance of the full range of duties as assigned including combination inspection (building, electrical, plumbing and mechanical) and the attainment of required certifications. Employees at this level receive instruction or assistance as new or unusual situations arise, and are fully aware of the operating procedures and policies of the work unit.

SUPERVISION RECEIVED AND EXERCISED

Building Inspector I

Receives immediate supervision from higher-level inspection staff.

Building Inspector II

Receives general supervision from higher-level inspection staff. May exercise technical supervision over less experienced staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

- Make field inspections of building construction and its components in residential, commercial and industrial applications to assure compliance with applicable codes and regulations of City, State and Federal agencies.
- Examine, evaluate and approve the construction of structural framing systems in compliance with Title 24, Title 25 and applicable fire, life, and health and safety requirements.
- ~~*~~ Examine completed construction and general workmanship prior to occupancy~~.~~
- ~~Maintain~~; maintain plan files, progress reports, and properly complete permit inspection records.
- Investigate alleged violations of zoning ordinance and related policies.
- Perform inspection duties in trade specialties such as plumbing, electrical and mechanical, structural, and finish trade areas.
- May perform necessary field work and/or issue permits for residential building, plumbing, mechanical and electrical code compliance and special inspection applications.
- ~~*~~ Inspect foundation, cement, framing, plastering, plumbing, heating, and electrical installations, and a large variety of other complex and routine building system elements for compliance with applicable codes and standards of workmanship~~.~~
- ~~Check~~; check stud, joist, rafter spacing and other structural member factors.
- Examine grade, quality, and treatment of lumber, cement, lath, wire and composition.
- Ensure proper and safe installation of routine and complex building systems.
- Coordinate inspection activities with other City departments and divisions.

- Review plans, schedules and specifications for compliance with applicable codes and ordinances.

- Ascertain conformance to Uniform Building Code, Plumbing and Electrical Codes, and pertinent provisions of State and County health and environmental ordinances.

- Confer with architects, contractors, builders and the general public in the field and office; prepare correspondence as required.

- Explain and interpret requirements and restrictions.

- Recommend amendments to building, plumbing, mechanical and electrical codes.

- Maintain detailed records and prepare reports.

Marginal Functions:

- Perform related duties as assigned.

QUALIFICATIONS

Building Inspector I

Knowledge of:

- Operations, services and activities of a building department.

- Accepted safety standards and methods of building construction.

- Building related codes and ordinances enforceable by the City, including the Uniform Building, Electrical, Plumbing and Mechanical Codes.

- Techniques of reading and interpreting drawings and blueprints.

Ability to:

- ~~Apply~~Read and interpret building plans, specifications, and building codes throughout the course of construction.

- Understand and carry out verbal and written directions.

- Learn to advise on standard construction methods and requirements.

- Learn to apply technical knowledge and follow proper inspection techniques to examine workmanship and materials, and detect deviations from plans, regulations, and standard construction practices.

- ~~Make appropriate decisions.~~

- Learn to perform journey level inspection skills in a variety of specialty trade areas and to perform competent and efficient work as a combination Building Inspector.

- ~~Enforce~~Learn to enforce State and Municipal Codes under the jurisdiction of the department.

- ~~Read and interpret building plans, specifications, and building codes throughout the course of construction.~~

- ~~Understand and carry out oral and written directions.~~
- ~~Advise on standard construction methods and requirements.~~

- Make arithmetical computations rapidly and accurately.

- Communicate clearly and concisely, both ~~orally~~verbally and in writing.

- Prepare precise written inspection correction lists and properly complete permit inspection records.

- Establish and maintain cooperative, working relationships with those contacted in the course of work.

- Enforce necessary regulations with firmness and tact.

- Perform medium manual labor, including but not limited to lifting and carrying up to fifty (50) pounds of weight, climbing, bending, stooping, etc.

~~In addition to the preceding, when assigned as~~
Building Inspector II~~:~~

In addition to the knowledge and abilities of the Building Inspector I:

Knowledge of:

- Principles and techniques of building inspection work.

Ability to:

- Determine that construction systems conform to City Code requirements.
- Advise on standard construction methods and requirements.
- Apply City codes and policies regarding zoning, environmental matters, and other regulations to field situations.
- Apply technical knowledge and follow proper inspection techniques to examine workmanship and materials, and detect deviations from plans, regulations, and standard construction practices.
- Perform journey level inspection skills in a variety of specialty trade areas and to perform competent and efficient work as a combination Building Inspector.
- Enforce State and Municipal Codes under the jurisdiction of the department.
- Work independently with minimal supervision.

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Building Inspector I and II

Training:

- Equivalent to an Associate of Arts degree with major course work in Building Inspection Technology or a related field.

License or Certificate:

- Possession of an appropriate, valid California driver's license.

Building Inspector I

Experience:

Four years of responsible construction experience equivalent to journey level in one of the following building trades: ~~–~~plumbing, electrical, carpentry, mechanical systems (heating, ventilation and air conditioning ~~(~~/HVAC) or related field.

License or Certificate:

~~Possession of, or ability to obtain, an appropriate, valid California driver's license.~~

Possession of an ~~International Conference of Building Officials (I.C.B.O.) certificate~~C. Certificate as a Certified Building Inspector is desirable.~~-~~

Building Inspector II

~~**Training:**~~

~~Equivalent to an Associate of Arts degree with major course work in Building Inspection Technology or a related field.~~

Experience:

A minimum of two years of responsible experience as a combination building inspector.

License or Certificate:

~~Possession of, or ability to obtain,~~ an ~~appropriate, valid California driver's license.~~

~~Possession of an International Conference of Building Officials (I.C.B.O.) certificate~~C. Certificate as a Certified Building Inspector is required at the time of appointment. In addition, must have certification in one or more of the following building trades: plumbing, electrical, or mechanical.

WORKING CONDITIONS

Environmental Conditions~~:~~

Field environment; travel from site to site; exposure to inclement weather conditions.

Physical Conditions~~:~~

Essential and marginal functions may require maintaining physical condition and good balance for stooping, squatting, bending, stair climbing, reaching, standing, lifting, and walking on even and uneven levels; operating motorized equipment and vehicles; ~~occasionally~~ lifting and carrying up to fifty (50) pounds.

EQUIPMENT MECHANIC

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To make minor and major mechanical repairs to gasoline or diesel powered automotive, heavy construction and other power-driven equipment~~.~~; to diagnose and repair vehicle components and control systems; and to perform related duties as assigned.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher level ~~equipment maintenance~~Equipment Maintenance staff.

May exercise functional or technical supervision over lower level equipment maintenance staff.

~~EXAMPLES OF DUTIES - Duties~~ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

Inspect, diagnose, and locate mechanical difficulties on City automobiles, trucks, and a variety of diesel and gasoline powered maintenance, and construction equipment.

Replace or repair faulty parts including wheel bearings, clutches, or oil seals, shock absorbers, exhaust systems, steering mechanisms, hydraulic systems and related parts and equipment.

Overhaul, repair, and adjust engines, transmissions, differentials, and clutches.

Tune up engines, replacing ignition parts and cleaning and adjusting carburetors and fuel injection systems.

Diagnose and repair such components as generators, alternators, distributors, relays, lights and switches.

Diagnose and repair computerized control systems, ignition systems, air conditioning systems, power steering and cooling systems.

Repair, adjust and replace brake systems including disc, hydraulic and air brakes.

Perform Department of Transportation BIT inspections.

Weld, fabricate and assemble parts and equipment for City automotive and heavy equipment.

Assist in the purchasing of equipment maintenance parts and materials.

Maintain work, time, and material records.

~~Assist in the purchasing of equipment maintenance parts and materials.~~

~~Maintain work, time and material records.~~

Marginal Functions

Assist other mechanics in the performance of mechanical repairs as required.

Perform smog certification on City owned vehicles.

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Operating and repair characteristics of a wide variety of City owned light and heavy equipment.

Operations and care of internal combustion engines and hydraulic equipment.

Methods, materials, equipment and tools used in routine welding and fabrication work.

Diagnostic methods.

Tools, equipment, and procedures used in the overhaul, repair, and adjustment of gas and diesel powered equipment.

Safe work practices.

Ability to:

-Perform journey level equipment mechanical work including the troubleshooting of equipment for both major and minor repair work.

-Work independently in the absence of supervision.

-Accurately determine mechanical repair needs and estimate the cost ~~and~~ of time ~~of~~ and repairs.

-Assist in the training and supervision of less experienced personnel.

-Use a variety of tools and equipment with skill.

-Maintain a variety of shop and repair records.

Understand and operate a computerized Fleet Management System.

Understand and follow oral and written directions.

Establish and maintain cooperative working relationships with those contacted in the course of work.

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Three years of increasingly responsible automotive and equipment repair and maintenance experience.

Training:

Equivalent to completion of twelfth grade and specialized training in the maintenance and repair of gas and diesel powered equipment.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of a valid Class B California driver's license is required within 60 days of appointment. Failure to obtain the required license may result in release from probation or termination.

Possession of, or ability to obtain, an appropriate, valid Vehicle Inspection Pollution Controls license.

ASE Certification (National Institute for Automotive Service Excellence) in at least three (3) areas within one year of appointment.

Special Requirements

Possession of a complete set of mechanic hand tools through 1-1/2" and tool box.

WORKING CONDITIONS

Environmental Conditions:

Shop and field environment; exposure to vehicles, moving equipment; and mechanical equipment; travel from site to site; exposure to fluctuating temperatures; inclement weather.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; lifting up to 100 lbs. and operating motorized equipment and vehicles.

HEAVY EQUIPMENT MECHANIC

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To maintain and make minor and major repairs to the City's transit buses and other gas and diesel powered vehicles.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher level Equipment Maintenance staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

- Inspect, diagnose, and locate mechanical difficulties on City transit buses, and a variety of other diesel and gasoline powered equipment as required.
- Receive information from users, evaluate equipment problem, and determine action required for facilitating repair.
- Weld, fabricate and assemble parts and equipment for City transit buses; weld, braze, cut shape and fasten metal parts; fabricate and weld vehicle frames, chassis, and exhaust systems.
- Use welding equipment, drill presses, lathes, grinders and a large assortment of other power and hand tools and measurement instruments required for journey level fabrication work.
- Overhaul, repair, and adjust engines, transmissions, differentials, valves and air and hydraulic systems.
- Tune up engines, replacing electrical and electronic parts and cleaning and adjusting fuel injection systems.
- Replace or repair faulty parts including wheel bearings, clutches, or oil seals, shock absorbers, exhaust systems, steering mechanisms, and related parts and equipment.

- Diagnose and repair such components as generators, alternators, distributors, relays, lights and switches.
- Maintain and repair air conditioning and climate systems.
- Diagnose and repair wheel chair lifts, and coin collection equipment.
- Make roadside repairs as required.
- Maintain work, time, and material records.
- Diagnose and repair various electronic and computer controlled devices.
- Diagnose and repair emissions systems.
- Tests vehicle to ensure problem has been resolved.
- Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

- Tools, equipment, and procedures used in the overhaul, repair, and adjustment of transit buses and other gas and diesel powered equipment.
- Operation and care of internal combustion engines and hydraulic equipment.
- Methods, materials, equipment and tools used in welding and fabrication work.
- Operating and repair characteristics of City transit buses.
- Safe work practices.
- Computers and electronics in vehicle applications.

Ability to:

- Perform skilled welding and fabrication work.
- Perform minor and major mechanical work on mechanical equipment.
- Use a variety of tools, testers and equipment with skill.

- Maintain a variety of shop and repair records.
- Understand and operate a computerized Fleet Management System.
- Understand and carry out ~~oral~~verbal and written directions.
- Perform journey level equipment mechanical work including the troubleshooting of equipment for both major and minor repair work.
- Work independently in the absence of supervision.
- Accurately determine appropriate repair needs and estimate the cost and time of repairs.
- Perform heavy manual labor including occasional lifting and carrying up to 100 lbs.
- Establish and maintain cooperative-working relationships with those contacted in the course of work.

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

- Three years of increasingly responsible experience performing automotive and heavy equipment maintenance and repair duties.

Training:

- Equivalent to completion of the twelfth grade and specialized training in the maintenance and repair of gas and diesel powered equipment.

License or Certificate:

- Possession of, or ability to obtain, an appropriate, valid California driver's license. Possession of a valid Class B California driver's license is required within 4560 days of appointment. Failure to obtain the required license ~~within this period shall be grounds for~~may result in release from probation or termination.
- Possession of, or ability to obtain, an appropriate, valid Vehicle Inspection Pollution Controls license.

- In compliance with Environmental Protection Agency (EPA) regulations, possession of an appropriate Motor Vehicle Air Conditioning Certification is required within one year of appointment. Failure to obtain ~~this~~ the required certification ~~within this period shall be grounds for~~ may result in release from probation or termination.

- Possession of Certification from the National Institute for Automotive Service Excellence (ASE) in at least three (3) areas in heavy-duty class is required within one year of appointment. Failure to obtain ~~this certification within this period shall be grounds for~~the required license may result in release from probation or termination.

Special Requirements:

- Possession of a complete set of mechanic hand tools through 1-1/2" and toolbox.

WORKING CONDITIONS

Environmental Conditions:

- Field environment, travel from site to site, exposure to hot and cold temperatures, inclement weather, hazards of confined spaces and other hazardous materials.

Physical Conditions:

- Essential and marginal functions may require maintaining physical condition necessary for heavy lifting up to 100 pounds, walking, standing, bending, stooping and crawling for prolonged periods of time; operating motorized equipment and vehicles.

Work Assignment:

- This classification is subject to a variety of shifts, including nights and weekends as well as rotating shifts periodically.

CITY OF MODESTO
NO. 6194

~~August 2006~~
July 2007

EQUIPMENT MECHANIC CREWLEADER

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are ***not*** *intended to reflect all duties performed within the job.*

DEFINITION

To lead skilled and semi-skilled mechanics in the most difficult and complex vehicle and equipment maintenance and repair work; and to personally make the most complex mechanical repairs to automotive, diesel, public safety and other power driven equipment.

SUPERVISION RECEIVED AND EXERCISED

Receives ~~general supervision~~direction from higher-level ~~equipment maintenance~~supervisory or management staff.

Exercises functional and technical supervision over lower level equipment maintenance staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities may include, but are not limited to, the following:

Essential Functions:

Lead, train and assist journey level and semi-skilled mechanics; assign work to mechanics; review workload and prioritize jobs; assist the ~~Fleet Maintenance Supervisor~~higher level supervisory and management staff in the day-to-day supervision activities.

Inspect, diagnose, and locate mechanical difficulties on City automobiles, trucks, and a variety of diesel and gasoline powered maintenance and heavy construction equipment.

Weld, fabricate and assemble parts and equipment for City automotive and heavy equipment; weld, braze, cut shape and fasten metal parts; fabricate and weld, vehicle frames, chassis and exhaust systems.

Use welding equipment, drill presses, lathes, grinders and large assortment of other power and hand tools and measurement instruments required for journey level fabrications work.

Overhaul, repair, and adjust engines, transmissions, differentials, clutches, fire engine pumps and valves and heavy construction equipment hydraulic systems.

Tune up engines, replacing electrical and electronic parts ~~and cleaning and adjusting~~; clean and adjust carburetors and fuel injection systems.

Replace or repair faulty parts including wheel bearings, clutches or oil seals, shock absorbers, exhaust systems, steering mechanisms, and related parts and equipment.

Repair or replace such components as generators, alternators, distributors, relays, lights and switches, computerized control systems, ignition systems, air conditioning systems, power steering and cooling systems.

Assist in the purchasing of equipment maintenance parts and materials.

Schedule preventative maintenance and outside shop repairs as required.

Maintain work, time and material records.

Perform smog certification on City-owned vehicles.

Follow up on Department of Transportation inspections to ensure vehicles are within required guidelines.

Marginal Functions:

Perform related duties as assigned.

QUALIFIC ATIONS

Knowledge of:

Tools, equipment, and procedures used in the overhaul, repair, and adjustment of gas and diesel powered equipment.

Operation and care of internal combustion engines, fire suppression pumping systems, and hydraulic equipment.

Methods, materials equipment and tools used in welding and fabrications work.

Operating and repair characteristics of a wide variety of City owned equipment.

Safe work practices.

Principles of ~~personnel~~lead supervision and training.

Basic computer skills.

Ability to:

Lead and train skilled and semi-skilled mechanics.

Perform skilled welding and fabrication work.

Perform minor and major mechanical work on mechanical equipment.

Use a variety of tools and equipment with skill.

Maintain a variety of shop and repair records.

Understand and carry out oral and written directions.

Understand and operate a computerized Fleet Management System.

Perform ~~journey level~~complex equipment mechanical work including the trouble-shooting of equipment for both major and minor repair work.

Work independently in the absence of supervision.

Accurately determine mechanical repair needs and estimate the cost and time of repairs.

Establish and maintain cooperative working relationships with those contacted in the course of work.

Experience and Training Guidelines

Any combination of experience and training what would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Four years of increasingly responsible experience performing automotive and equipment maintenance and repair duties comparable to those of an Equipment Mechanic.

Training:

Equivalent to completion of the twelfth grade and specialized training in the maintenance and repair of gas and diesel powered equipment.

License or Certificate:

~~Possession of, or ability to obtain, an appropriate, valid class California driver's license.~~

Possession of a valid Class A or B Commercial California Driver's License with appropriate endorsements, as assigned, is required within ~~45~~60 days of appointment. Failure to obtain the required license ~~within this period~~ may result in release from probation~~.~~ or termination.

Possession of, or ability to obtain, an appropriate, valid Vehicle Inspections Pollution Controls license.

In compliance with Environmental Protection Agency (EPA) regulations, possession of an appropriate Motor Vehicle Air Conditioning Certification is required within one year of appointment. Failure to obtain ~~this~~ the required certification ~~within this period shall be grounds for~~ may result in release from probation~~.~~ or termination.

Possession of Certification from the National Institute for Automotive Service Excellence in at least five (5) areas heavy-duty class is required within one year of appointment. Failure to obtain ~~this~~the required certification ~~within this period shall be grounds for~~may result in release from probation or termination.

Special Requirements:

Possession of a complete set of mechanic hand tools through 1-1/2" and toolbox.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment; travel from site to site. Hot and cold temperatures; inclement weather.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; lifting up to 100 lbs. and operating motorized equipment and vehicles.

HEAVY EQUIPMENT MECHANIC CREWLEADER

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To lead Heavy Equipment Mechanics in the maintenance and repair of the City's transit buses and other gas and diesel powered vehicles; and to personally make the most complex mechanical repairs.

SUPERVISION RECEIVED AND EXERCISED

Receives ~~general supervision~~direction from higher-level ~~Equipment Maintenance~~supervisory or management staff.

Exercises functional and technical supervision over lower level equipment maintenance staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

Lead, train and assist journey level and semi-skilled mechanics; assign work to mechanics; assist ~~the Fleet Maintenance Supervisor~~higher level supervisory and management staff in the day-to-day supervision activities.

Inspect, diagnose, and locate mechanical difficulties on City transit buses, and a variety of other diesel and gasoline powered equipment as required.

Receive information from users; evaluate equipment problem; and determine action required for facilitating repair.

Weld, fabricate and assemble parts and equipment for City transit buses; weld, braze, cut shape and fasten metal parts; fabricate and weld vehicle frames, chassis, and exhaust systems.

Use welding equipment, drill presses, lathes, grinders and a large assortment of other power and hand tools and measurement instruments required for journey level fabrication work.

Overhaul, repair, and adjust engines, transmissions, differentials, valves and air and hydraulic systems.

Tune up engines, replacing electrical and electronic parts ~~and cleaning and adjusting~~; clean and adjust fuel injection systems.

Replace or repair faulty parts including wheel bearings, oil seals, shock absorbers, exhaust systems, steering mechanisms, and related parts and equipment.

Diagnose and repair such components as generators, alternators, distributors, relays, lights and switches.

Maintain and repair air conditioning and climate systems.

Diagnose and repair wheel chair lifts and coin collection equipment.

Make roadside repairs as required.

Communicate with City vendors and City employees regarding status of fleet or other issues.

Assist in the purchasing of equipment maintenance parts and materials.

Maintain work, time, and material records.

Diagnose and repair various electronic and computer controlled devices.

Diagnose and repair emissions systems.

Follow up on Department of Transportation inspections to ensure vehicles are within required guidelines.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Tools, equipment, and procedures used in the overhaul, repair, and adjustment of transit buses and other gas and diesel powered equipment.

Operation and care of internal combustion engines and hydraulic equipment.

Methods, materials, equipment and tools used in welding and fabrication work.

Operating and repair characteristics of City transit buses.

Safe work practices.

Principles of ~~personnel~~lead supervision and training.

Basic computer skills ~~Computers~~ including computers and electronics in vehicle applications.

Ability to:

Lead and train skilled and semi-skilled mechanics.

Perform skilled welding and fabrication work.

~~Perform minor and major mechanical work on mechanical equipment.~~

Use a variety of tools, testers and equipment with skill.

Maintain a variety of shop and repair records.

Understand and operate a computerized Fleet Management System.

Understand and carry out ~~oral~~verbal and written directions.

Perform ~~journey level~~complex equipment mechanical work including the troubleshooting of equipment for both major and minor repair work.

Work independently in the absence of supervision.

Perform heavy manual labor including occasional lifting and carrying up to 100 lbs.

Accurately determine mechanical repair needs and estimate the cost and time of repairs.

Establish and maintain cooperative-working relationships with those contacted in the course of work.

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Four years of increasingly responsible experience performing automotive and heavy equipment maintenance and repair duties comparable to those of a Heavy Equipment Mechanic.

Training:

Equivalent to completion of the twelfth grade and specialized training in the maintenance and repair of gas and diesel powered equipment.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of a valid Class B California driver's license is required within ~~45~~60 days of appointment. Failure to obtain the required license ~~within this period shall be grounds for~~may result in release from probation~~.~~ or termination.

Possession of, or ability to obtain, an appropriate, valid Vehicle Inspection Pollution Controls license.

In compliance with Environmental Protection Agency (EPA) regulations, possession of an appropriate Motor Vehicle Air Conditioning Certification is required within one year of appointment. Failure to obtain ~~this~~the required certification ~~within this period shall be grounds for~~may result in release from probation or termination.

Possession of Certification from the National Institute for Automotive Service Excellent (ASE) in at least four (4) areas in heavy-duty class within one year of appointment. Failure to obtain ~~this~~the required certification ~~within this period shall be grounds for~~may result in release from probation or termination.

Special Requirements

Possession of a complete set of mechanic hand tools through 1-1/2" and toolbox.

WORKING CONDITIONS

Environmental Conditions:

~~Field~~ Shop and field environment, travel from site to site, exposure to hot and cold temperatures, inclement weather, hazards of confined spaces and other hazardous materials.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for heavy lifting up to 100 pounds, walking, standing, bending, stooping and crawling for prolonged periods of time; operating motorized equipment and vehicles.

Work Assignment:

This classification is subject to a variety of shifts, including nights and weekends, as well as rotating shifts periodically.

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-416

Print

RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-319 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-319, which approved the Class Range Table for General Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2006-319. Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective May 23, 2006," attached to Resolution No. 2006-319, is hereby amended as shown on the amended Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective July 10, 2007," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" amends the Class Range Table as follows:

1. Adds Water Distribution Operator I at range 116
2. Adds Water Distribution Operator II at range 118
3. Adds Water Distribution Operator III at range 124
4. Adds Water Services Equipment Operator I at range 124
5. Adds Water Services Equipment Operator II at range 128
6. Adds Water Production Operator I at range 124
7. Adds Water Production Operator II at range 128
8. Adds Water Division Crewleader at range 132
9. Adds Wastewater Treatment Plant Operator I at range 120

10. Adds Wastewater Treatment Plant Operator II at range 124

11. Adds Wastewater Treatment Plant Operator III at range 126

12. Amends Cross Connection Specialist from range 122 to range 124

13. Amends Water Conservation Specialist from range 122 to range 124

14. Amends Senior Wastewater Treatment Plant Operator from range 128 to range 130

15. Amends Building Inspector I from range 126 to range 128

16. Amends Building Inspector II from range 130 to range 132

17. Amends Senior Building Inspector from range 134 to range 136

18. Amends Equipment Mechanic from range 120 to range 122

19. Amends Heavy Equipment Mechanic from range 122 to range 124

20. Amends Equipment Mechanic Crewleader from range 124 to range 126

21. Amends Heavy Equipment Mechanic Crewleader from range 126 to 128

22. Deletes Water Distribution Operator, range 116

23. Deletes Wastewater Treatment Plant Attendant, range 115

24. Deletes Wastewater Treatment Plant Operator, range 119

25. Deletes Wastewater Treatment Plant Relief Operator, range 121

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after July 10, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 10th day of July, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective **July 10, 2007**

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Exhibits Coordinator Police Clerk I
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II Police Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Animal Control Officer I Electrical Technician I Equipment Service Technician Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

Exhibit "A"

RANGE	TITLE
115	Accounting Technician Administrative Services Technician I Code Enforcement Officer I Community Service Officer I Customer Services Account Clerk III Senior Administrative Office Assistant
116	Equipment Operator Fire Prevention Technician I Motor Sweeper Operator Traffic Operations Technician Used Oil Coordinator Wastewater Collection System Operator **Water Distribution Operator I**
117	Electrical Technician II
118	Customer Services Accounting Technician Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer **Water Distribution Operator II**
119	Administrative Services Technician II Animal Control Officer II Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer II Community Service Officer II Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Public Information Technician

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-417

RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-321 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-321, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2006-321 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective May 23, 2006", attached to Resolution No. 2006-321, is hereby amended as shown on the amended Exhibit "A" entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective June 12, 2007," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" amends the Class Range Table as follows:

1. Amends Water Quality Control Operations Supervisor from range 432 to range 440
2. Amends Water Superintendent from range 441 to range 447
3. Amends Supervising Building Inspector from range 442 to range 444

SECTION II. WATER ASSIGNMENT PAY. Effective July 10, 2007, the employee in the classification of Operations and Maintenance Supervisor when assigned to the Water Division, shall be eligible to receive a 20% assignment pay in consideration of maintaining appropriate internal relationships with subordinate classes.

SECTION III. EFFECTIVE DATE. This resolution shall become effective on and after July 10, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective July 10, 2007

RANGE	TITLE
403	
407	Administrative Clerk II (Confidential) Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Administrative Technician (Confidential)
414	
415	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential) Workers' Compensation Claims Assistant
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

Exhibit "A"

RANGE	TITLE
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor Parking Services Supervisor
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Supervising Animal Control Officer Police Civilian Supervisor Stores Manager Systems Technician III
427	Assistant City Clerk/Auditor Legal Services Administrator Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Junior Civil Engineer Junior Traffic Engineer Senior Crime Analyst Software Analyst I
431	Administrative Analyst II Assistant Risk Manager Budget Analyst I Personnel Analyst Recycling Program Coordinator

RANGE	TITLE
432	Communications Specialist Compost Facility Supervisor Customer Services Supervisor Neighborhood Preservation Supervisor Operations and Maintenance Supervisor Recreation Supervisor II Senior Accountant Water Quality Control Maintenance Supervisor
433	Organizational Development Specialist
434	Assistant Civil Engineer Assistant Traffic Engineer Budget Analyst II Environmental Laboratory Supervisor Operations Supervisor Regulatory Compliance Supervisor SCADA Supervisor Senior Community Development Program Specialist Senior Housing Rehabilitation Specialist Software Analyst II Supervising Accountant Systems Engineer I
435	Business Analyst Cultural Services Manager Emergency Medical Services Coordinator Integrated Waste Specialist Management Analyst Senior Personnel Analyst Weed and Seed Program Coordinator
436	Electrical Supervisor Senior Planner
437	

RANGE	TITLE
438	Budget Officer Events Supervisor Housing Program Supervisor Land Surveyor Property Agent Public Safety Business Services Analyst Senior Business Analyst Software Analyst III Systems Engineer II
439	Administrative Services Officer Community Facilities Districts Administrative Officer
440	Associate Civil Engineer Associate Traffic Engineer Transportation Planner **Water Quality Control Operations Supervisor**
441	Airport Manager Building Maintenance Superintendent Fleet Manager Housing and Urban Development Manager Parks Operations Superintendent Parks Planning and Development Manager Purchasing Manager Recreation Program Manager Streets Superintendent Urban Forestry Superintendent Wastewater Collections Superintendent
442	Customer Services Division Manager Manager of Budget and Financial Analysis Software Analyst IV Supervising Construction Inspector Systems Engineer III
443	

RANGE	TITLE
444	Deputy Chief Building Official Principal Planner Solid Waste Program Manager **Supervising Building Inspector** Transit Manager
445	Accounting Division Manager
446	Information Technology Unit Manager Wastewater Treatment Plant Manager
447	Business Development Division Manager Chief Building Official Planning Division Manager Senior Civil Engineer Traffic Engineer **Water Superintendent**
448	
449	
450	
451	
452	
453	
455	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-418

RESOLUTION AMENDING THE FISCAL YEAR 07-08 OPERATING BUDGETS OF VARIOUS FUNDS TO APPROPRIATE RESOURCES TO FINANCE THE COST OF VARIOUS SALARY ADJUSTMENTS NEGOTIATED FOR CERTAIN CLASSES IN WATER, WASTEWATER TREATMENT, BUILDING INSPECTION AND FLEET FROM FUND RESERVES

WHEREAS, the City Council desires to make salary and benefit changes for certain classes in which require licensure or certification, and

WHEREAS, the FY 07-08 costs associated with these changes are estimated at $366,408, effective July 10, 2007, and

WHEREAS, $366,408 of these increased expenditures must be budgeted as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2007-08 Operating Budget is hereby amended as shown in Exhibit A.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Adoption of Class Specifications and Salary Changes for Certified Classes
Water, Wastewater, Equipment Mechanic and Building Inspection Classes

Exhibit A

FY 2007-2008 Cost Increase			
Fund	Title		Cost
100	General Fund	$	63,763
6100	Water Fund	$	151,502
6210	Wastewater Fund	$	78,912
6540	Transit Fund	$	32,199
7200	Fleet Services Fund	$	40,032
Total		$	366,408
The individual line items for salaries and benefits will be adjusted as needed.			

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-419

RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF TACTICAL VESTS FOR THE CITY OF MODESTO POLICE DEPARTMENT, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A ESTIMATED ANNUAL COST OF $65,000

WHEREAS, the Modesto Police Department provides tactical vests for all of its sworn and some civilian positions, and

WHEREAS, a custom fitted vest is provided at the time of hire and current personnel are provided a replacement vest every five years, and

WHEREAS, the FBI established a standarized bullet testing protocal, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, Funds are budgeted and made available in 0100-190-1921-0356 for the purchase of vests, in FY 07/08,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of tactical vests for the City of Modesto Police Department, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual amount of $65,000 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for the purchase of tactical vests for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, to be opened in the office of

the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened, they shall be tabulated and analyzed and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-420

Print

RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH IMS INFRASTRUCTURE MANAGEMENT SERVICES TO PROVIDE A PAVEMENT MANAGEMENT PROGRAM, IN THE NOT-TO-EXCEED AMOUNT OF $378,000.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, a Pavement Management Program is required to receive federal funding for street maintenance, and

WHEREAS, a Pavement Management Program consists of inspecting and rating pavement conditions on asphalt concrete streets, and

WHEREAS, all arterial, collector, and residential streets will be inspected, and

WHEREAS, the City of Modesto volunteered to be the Lead Agency for Stanislaus County and all City jurisdictions, and

WHEREAS, the last Pavement Management Program was completed in 2002, and

WHEREAS, eleven (11) Pavement Management qualification statements were evaluated, and

WHEREAS, four (4) firms were selected as the most qualified and responsive firms to interview for services, and

WHEREAS, interviews were conducted and IMS Infrastructure Management Services was ranked the most qualified firm for the Pavement Management Program, and

WHEREAS, a selection committee consisting of different jurisdiction selected IMS Infrastructure Management Services as the most qualified to complete the Pavement Management Program, and

WHEREAS, City staff recommends that an Agreement with the consulting firm of IMS Infrastructure Management Services be approved to complete the Pavement Management Program for Stanislaus County and all City jurisdictions including Modesto, and

WHEREAS, City desires to enter into an Agreement with INS Infrastructure Management Services, in an amount not-to-exceed $378,000.00 to complete the Pavement Management Program, and

WHEREAS, IMS Infrastructure Management Services, will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Consultant Agreement with IMS Infrastructure Management Services in the amount not-to-exceed $378,000.00, to complete the Pavement Management Program.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-421

RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AGREEMENT WITH IMS INFRASTRUCTURE MANAGEMENT SERVICES, AND COVER INCREASED PROJECT COSTS OF $182,027 FOR DESIGN AND CONTRACT ADMINISTRATION. FEDERAL FUNDING WILL COVER $170,002 (ACCOUNT 0700-430-H485-3532 "FEDERAL RSTP") AND THE REMAINING $12,025 IS MATCHING FUNDS FROM LTF (ACCOUNT 0510-700-H485-7070 "TRANSFER FROM LTF"), AND REAPPROPRIATING $182,027 TO CIP ACCOUNT 0700-430-H485-6010 (PAVEMENT CONDITION SURVEY) FOR A TOTAL PROJECT BUDGET OF $412,027

WHEREAS, the City is required to provide a local match to the federal funds to design the Pavement Condition Survey project in the estimated total amount of $389,124 including funding an agreement with IMS Infrastructure Management Services to complete pavement condition surveys and data management related to the Pavement Management Program for Stanislaus County in which the City of Modesto is acting as the lead agency and to cover contract administration costs by City staff, and

WHEREAS, certain budgetary transactions are necessary to fully fund said agreement with IMS Infrastructure Management Services in the amount of $378,000 for design services, and $11,124 for contract administration by City staff, for an estimated expenditures total of $389,124, and

WHEREAS, to fully fund the agreement and cover increased project costs of $182,027 for design and contract administration, Federal funding will cover $170,002 (Account 0700-430-H485-3532 "Federal RSTP"), and

WHEREAS, the remaining $12,025 is matching funds from LTF (Account 0510-700-H485-7070 "Transfer from LTF"), and $182,027 will be reappropriated to CIP

Account 0700-430-H485-6010 (Pavement Condition Survey) for a total project budget of $412,027,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the transfer of funds as set forth herein to fully fund the agreement and cover increased project costs of $182,027 for design and contract administration, Federal funding will cover $170,002 (Account 0700-430-H485-3532 "Federal RSTP") and the remaining $12,025 is matching funds from LTF (Account 0510-700-H485-7070 "Transfer from LTF"), and $182,027 will be reappropriated to CIP Account 0700-430-H485-6010 (Pavement Condition Survey) for a total project budget of $412,027.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007–422

RESOLUTION APPROVING THE IMPLEMENTATION OF PRINCIPLES REGARDING THE APPLICATION OF WASTEWATER CAPACITY CHARGES TO WET INDUSTRIES

WHEREAS, on May 8, 2007, the Modesto City Council, by Resolution 2007-287, amended and restated Resolution No. 93-265, rescinding Sewer Bond Redemption charges, and established Wastewater Capacity Charges, and

WHEREAS, on May 8, 2007, the Modesto City Council, by motion, introduced an ordinance to implement Wastewater Capacity Charges (connection fees), and

WHEREAS, a supplementary report was also presented to Council on May 8, 2007 discussing a set of principles for applying capacity charges to significant (wet) industries, and

WHEREAS, the Modesto City Council, by motion, directed staff to return to Council at the earliest practical date, but no later than July 24, 2007, with a Resolution implementing the four additional principles outlined in the staff report regarding the application of Wastewater Capacity Charges to industries,

WHEREAS, staff and representatives of the wet industries met to discuss principles and refine them into three principles acceptable to both the City and wet industries, and

WHEREAS, the following summarizes the revised principles recommended for implementation:

A. An "allocation level" is established by the City of Modesto for the Industrial User to be charged. This "allocation level" shall be the highest annual actual use of Flow, of Biochemical Oxygen Demand (BOD), and of Total Suspended Solids (TSS) (as those terms are defined in MMC

Section 5-6.103) during the years 1999 through 2006, plus fifteen percent (15%) of said amount for each Industrial User. The highest annual actual use for the three named constituents (Flow, BOD, and TSS) may occur in different years for a particular Industrial User, and in that circumstance those different years will be used for calculation of the allocation level.

B. A capacity charge will be assessed for a wet industry when the allocation level is actually exceeded by the Industrial User for two consecutive years, by more than ten percent (10%) in each of those two consecutive years, or if actually exceeded by more than ten percent (10%) in three years during a five-year period.

C. Nothing set forth in this Resolution shall affect the right or ability of the City to impose fines or charges as provided by code or law, other than capacity charges on Industrial Users,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the implementation of principles regarding the application of Wastewater Capacity Charge for wet industries.

BE IT FURTHER RESOLVED, that notwithstanding any other provision of this or any other resolution or any provision of the Modesto Municipal Code (MMC), no capacity charge shall be imposed upon an Industrial User which currently holds a permit to discharge wastewater to the City of Modesto on or before May 8, 2007 unless and until all of the following occur:

A. An "allocation level" is established by the City of Modesto for the Industrial User to be charged. This "allocation level" shall be the highest annual actual use of Flow, of Biochemical Oxygen Demand (BOD), and of Total Suspended Solids (TSS) (as those terms are defined in MMC Section 5-6.103) during the years 1999 through 2006, plus fifteen percent (15%) of said amount for each Industrial User. The highest annual actual use for the three named constituents (Flow, BOD, and TSS) may occur in different years for a particular Industrial User, and in that circumstance those different years will be used for calculation of the allocation level.

B. The allocation level is actually exceeded by the Industrial User to be charged for two consecutive years, by more than ten percent (10%) in each of those two consecutive years, or if actually exceeded by more than ten percent (10%) in three years during a five-year period.

C. Nothing set forth in this Resolution shall affect the right or ability of the City to impose fines or charges as provided by code or law, other than capacity charges on Industrial Users.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carrier and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-423

RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS FOR THE TARANTELLA ESTATES SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, JOHN S. RUSH, an unmarried man, and CHICA LLC, a California Limited Liability Company, are the subdividers of TARANTELLA ESTATES SUDIVISION ("SUBDIVISION") in the Village One Specific Plan Area, and

WHEREAS, JOHN S. RUSH, an unmarried man, and CHICA LLC, a California Limited Liability Company, have filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $72,693.50 and $36,346.75 respectively, and

WHEREAS, JOHN S. RUSH, an unmarried man, and CHICA LLC, a California Limited Liability Company, have filed a warranty bond in the amount of $7,269.35 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the City Engineer, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the City Engineer has indicated that it would be in order for the City Council to accept the public improvements in the SUBDIVISION as complete, and authorize the City Clerk to file a Notice of Completion and to release the securities upon expiration of statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $72,693.50 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $36,346.75 sixty (60) days after the recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee the SUBDIVISION improvements in the amount of $7,269.35 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-424

RESOLUTION REQUIRING FIVE (5) AFFIRMATIVE VOTES OF THE CITY COUNCIL AUTHORIZING THE PUBLIC WORKS WASTEWATER COLLECTIONS STAFF TO PERFORM THE REPAIRS NECESSARY FOR THE TUOLUMNE RIVER BANK EROSION IMPROVEMENTS PROJECT PER THE CITY CHARTER (SECTION 1307)

WHEREAS, Public Works Engineering put the Tuolumne River Bank Erosion Improvements project out to bid on June 4, 2007, and

WHEREAS, on June 19, 2007, fourteen (14) contractors attended the mandatory site walk, and

WHEREAS, on June 26, 2007, no bids were received for this project, and

WHEREAS, after making several calls to contractors regarding this project, it was determined that no bids were received due to the high risk being placed on the contractor, and

WHEREAS, the Department of Fish and Wildlife has mandated that this project may be completed only during the time period of August 1 though September 15, as the Tuolumne River is at its lowest point during this time, and it is prior to the Chinook Salmon run, and

WHEREAS, due to the short timeframe for the work to be completed, it has been determined that City staff, along with contractors on a time and materials basis, will be able to complete this work, and

WHEREAS, where a public works project is publicly bid and no bids are received, the City Charter (Section 1307) allows the Council, with five (5) affirmative

votes, to determine that public works projects can be performed better by City forces without regard to the public works bidding requirements in the Charter,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts a resolution requiring five (5) affirmative votes of the City Council authorizing the Public Works Wastewater Collections staff to perform the repairs necessary for the Tuolumne River Bank Erosion Improvements project per the City Charter (Section 1307).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-425

RESOLUTION AUTHORIZING THE PUBLIC WORKS DIRECTOR TO NEGOTIATE CONTRACTS FOR TIME AND MATERIALS WORK TO ASSIST CITY STAFF ON THE TUOLUMNE RIVER BANK EROSION IMPROVEMENTS PROJECT

WHEREAS, Public Works Engineering put the Tuolumne River Bank Erosion Improvements project out to bid on June 4, 2007, and

WHEREAS, on June 19, 2007, fourteen (14) contractors attended the mandatory site walk, and

WHEREAS, on June 26, 2007, no bids were received for this project, and

WHEREAS, after making several calls to contractors regarding this project, it was determined that no bids were received due to the high risk being placed on the contractor, and

WHEREAS, the Department of Fish and Wildlife has mandated that this project may be completed only during the time period of August 1 though September 15, as the Tuolumne River is at its lowest point during this time, and it is prior to the Chinook Salmon run, and

WHEREAS, due to the short timeframe for the work to be completed, it has been determined that City staff, along with contractors on a time and materials basis, will be able to complete this work, and

WHEREAS, where a public works project is publicly bid and no bids are received, the City Charter (Section 1307) allows the Council, with five (5) affirmative votes, to determine that public works projects can be performed better by City forces without regard to the public works bidding requirements in the Charter,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts a resolution authorizing the Public Works Director to negotiate contracts for time and materials work to assist City staff on the Tuolumne River Bank Erosion Improvements project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-426

RESOLUTION AUTHORIZING THE AWARD OF PROPOSED CONTRACT FOR AN INTEGRATED PUBLIC SAFETY SYSTEM/ COMPUTER AIDED DISPATCH (CAD) TO IPC COMMAND SYSTEMS INC. (IPC), 1000 BRIGGS ROAD, MT. LAUREL, NJ 08054, IN AN AMOUNT NOT TO EXCEED $1,8555,631 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, on May 23, 2006, by Resolution No. 2006-315, City Council approved the request to authorize the issuance of an RFP an Integrated Public Safety System/ Computer Aided Dispatch (CAD), and

WHEREAS, and RFP team was formed and included representatives from the City of Modesto, Stanislaus County, and the Stanislaus Regional 911 Center, and

WHEREAS, on June 20, 2006 the City of Modesto, Stanislaus County, and SR911 issued the Request for Proposal (RFP) for an Integrated Public Safety System, and

WHEREAS, the RFP specified the agencies' requirements and served as the basis for vendor selection, to select the most appropriate system, the agencies formed and advisory team to participate in the evaluation and selection of the new system, and

WHEREAS, the advisory team included representatives from all of the impacted agencies throughout the jurisdictions served by SR911, and

WHEREAS, prior to release of the RFP, a vendor list was created with input from all team members, and

WHEREAS, upon completion of the RFP, vendors were notified of the RFP's availability on the City's website and all subsequent addendums that were published, and

WHEREAS, in addition, the RFP was provided to any additional vendors not on the original vendor list who requested a copy, and

WHEREAS, on June 30, 2006 the agencies hosted a non-mandatory bidder's conference during which prospective bidders could take a walk-through of SR911 and ask any questions they had regarding the RFP,

WHEREAS, representatives from the advisory team were present during this conference to help provide clarification to vendors, and

WHEREAS, proposals were accepted up until the due date of August 15, 2006, and

WHEREAS, eight proposals were received from vendors, and

WHEREAS, the advisory team conducted a preliminary proposal analysis of the functional requirements in accordance with the evaluation and selection agreed upon by the advisory team, and

WHEREAS, the evaluation included a detailed analysis of responses to specific operational and technical requirements, and

WHEREAS, the advisory team reviewed the requirements based upon a priority ranking assigned to each individual requirement, and

WHEREAS, after the review of the functional requirements, four vendors were selected as finalists and invited to conduct on-site product demonstrations, and

WHEREAS, all finalist vendors were required to follow the same demonstration process and were allotted the same amount of time for their system demonstrations, and

WHEREAS, after several advisory team meetings and a thorough evaluation of how the information learned during the demonstrations, site visits, and reference checks affected the finalist proposals, the advisory team invited tow vendors to submit a Best and Final Offer (BAFO) incorporating all representations made verbally or in writing subsequent to their original proposals, and

WHEREAS, both vendors submitted a Best and Final Offer (BAFO) incorporating all representations made verbally or in writing on February 2, 2007, and

WHEREAS, the advisory team conducted a thorough review of both vendors and declared that it was in the best interest of all agencies to host an on-site BAFO demonstration, and

WHEREAS, both vendors were invited to discuss their proposed BAFO solutions as well as demonstrate the software system that would most likely be implemented for the agencies, and

WHEREAS, both vendors participated in a four hour BAFO demonstration and were given the opportunity to clarify their BAFO and answer clarification questions from the agencies, and

WHEREAS, at the conclusion of the BAFO meetings the advisory team conducted a final analysis of the two vendors BAFOs, the initial proposals, demonstration results, reference check results, and site visit feedback to ensure that all information as considered prior to making a final decision, and

WHEREAS, after review and input from the advisory team, the executive committee (comprised of executive representatives from the City of Modesto, County of Stanislaus, and JPA) reviewed the proposals according to the evaluation and recommended to enter into contract negotiations, with the chosen vendor IPC Command Systems Inc. (IPC).

WHEREAS, the Modesto Municipal Code, MMC 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. This re-issuance of the RFP for the acquisition of an Integrated Public Safety System conforms to code. Improve emergency service communication systems,

partner with external agencies to capitalize on economics of scale, and emergency services are delivered quickly, safely, and responsively.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes an award of proposal and contract for an Integrated Public Safety System RFP.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-427

RESOLUTION TO APPROVING A PROJECT AGREEMENT WITH THE COUNTY OF STANISLAUS AND THE STANISLAUS REGIONAL 911 JPA FOR AN INTEGRATED PUBLIC SAFETY SYSTEM/ COMPUTER AIDED DISPATCH (CAD), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE PROJECT AGREEMENT

WHEREAS, on May 23, 2006, by Resolution No. 2006-315, City Council approved the request to authorize the issue of an RFP for an Integrated Public Safety System/ Computer Aided Dispatch (CAD), and

WHEREAS, and RFP team was formed and included representatives from the City of Modesto, Stanislaus County, and the Stanislaus Regional 911 Center, and

WHEREAS, on June 20, 2006 the City of Modesto, Stanislaus County, and SR911 issued the Request for Proposal (RFP) for an Integrated Public Safety System, and

WHEREAS, the RFP specified the agencies' requirements and served as the basis for vendor selection, to select the most appropriate system, the agencies formed and advisory team to participate in the evaluation and selection of the new system, and

WHEREAS, the advisory team included representatives from all of the impacted agencies throughout the jurisdictions served by SR911, and

WHEREAS, prior to release of the RFP, a vendor list was created with input from all team members, and

WHEREAS, upon completion of the RFP, vendors were notified of the RFP's availability on the City's website and all subsequent addendums that were published, and

WHEREAS, in addition, the RFP was provided to any additional vendors not on the original vendor list who requested a copy, and

WHEREAS, on June 30, 2006 the agencies hosted a non-mandatory bidder's conference during which prospective bidders could take a walk-through of SR911 and ask any questions they had regarding the RFP,

WHEREAS, representatives from the advisory team were present during this conference to help provide clarification to vendors, and

WHEREAS, proposals were accepted up until the due date of August 15, 2006, and

WHEREAS, eight proposals were received from vendors, and

WHEREAS, the advisory team conducted a preliminary proposal analysis of the functional requirements in accordance with the evaluation and selection agreed upon by the advisory team, and

WHEREAS, the evaluation included a detailed analysis of responses to specific operational and technical requirements, and

WHEREAS, the advisory team reviewed the requirements based upon a priority ranking assigned to each individual requirement, and

WHEREAS, after the review of the functional requirements, four vendors were selected as finalists and invited to conduct on-site product demonstrations, and

WHEREAS, all finalist vendors were required to follow the same demonstration process and were allotted the same amount of time for their system demonstrations, and

WHEREAS, after several advisory team meetings and a thorough evaluation of how the information learned during the demonstrations, site visits, and reference checks affected the finalist proposals, the advisory team invited tow vendors to submit a Best and Final Offer (BAFO) incorporating all representations made verbally or in writing subsequent to their original proposals, and

WHEREAS, both vendors submitted a Best and Final Offer (BAFO) incorporating all representations made verbally or in writing on February 2, 2007, and

WHEREAS, the advisory team conducted a thorough review of both vendors and declared that it was in the best interest of all agencies to host an on-site BAFO demonstration, and

WHEREAS, both vendors were invited to discuss their proposed BAFO solutions as well as demonstrate the software system that would most likely be implemented for the agencies, and

WHEREAS, both vendors participated in a four hour BAFO demonstration and were given the opportunity to clarify their BAFO and answer clarification questions from the agencies, and

WHEREAS, at the conclusion of the BAFO meetings the advisory team conducted a final analysis of the two vendors BAFOs, the initial proposals, demonstration results, reference check results, and site visit feedback to ensure that all information as considered prior to making a final decision, and

WHEREAS, after review and input from the advisory team, the executive committee (comprised of executive representatives from the City of Modesto, County of Stanislaus, and JPA) reviewed the proposals according to the evaluation and recommended to enter into contract negotiations, with the chosen vendor IPC Command Systems Inc. (IPC).

WHEREAS, The City of Modesto, County of Stanislaus, and Stanislaus Regional 911 JPA is requesting to enter into a formal project agreement.

WHEREAS, the purpose of this project agreement is to formally abide by written rules, policies, and procedures agreed upon by all participating agencies.

WHEREAS, the project agreement will ensure that staffing and financial resources are properly aligned prior, during, and post project implementation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a project agreement with the county of Stanislaus and the Stanislaus regional 911 JPA for an integrated public safety system.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-428

RESOLUTION AMENDING THE BUDGETS OF VARIOUS FUNDS TO REFLECT THE REVENUES AND EXPENDITURES RELATED TO THE ACQUISITION OF A COMPUTER AIDED DISPATCH SOFTWARE PROGRAM

WHEREAS, the City Council has approved staff's recommendation to acquire a computer aided dispatch and integrated public safety software program (CAD system) for use in the regional 911 communication dispatch center; and

WHEREAS, the City Council has previously approved the use of federal grant funds for the acquisition of the CAD system; and

WHEREAS, the City Council previously approved the use of General Fund reserves for the acquisition of the CAD system; and

WHEREAS, there remains a portion of the CAD system acquisition cost that exceeds the amount of available grant and General Fund resources; and

WHEREAS, the CAD system represents a qualifying expense under the Police Capital Facility Fees program (Police CFF); and

WHEREAS, there are sufficient Police CFF resources available to complete the acquisition of the CAD system;

WHEREAS, the budgets of the General Fund, grant programs and Police CFF funds must be amended in accordance with Exhibit A to this resolution, which is incorporated by reference herein;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Director to take all steps necessary to amend the program budgets as shown in Exhibit A to this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

FUND:	Current Budget	Increase(Decrease)	Fund	Agy	Org	Object	*Revised Budget*	Fund	Agy	Org	Object
0400-Operation Block Grants											
Revenue:											
Federal Grant - Byrne Justice 2005	$ 116,260	$ (116,260)	0400	190	2902	3508	$ 116,260	7130	070	MXXX	3508
Expense:											
CAD Equipment	$ 116,260	$ (116,260)	0400	190	2902	5926	$ 116,260	7130	070	MXXX	6040
0410-Operation Grants Reimbursed											
Revenue:											
Federal Grant - COPS 2005 Technology	$ 295,993	$ (295,993)	0410	190	2904	3508	$ 295,993	7130	070	MXXX	3508
Expense:											
Police Equipment	$ 295,993	$ (295,993)	0410	190	2904	5401					
Construction-City							$ 213,125	7130	070	MXXX	6040
Construction-County							$ 82,868	7130	070	MXXX	6042
1310-Police Capital Facilities Fund											
Revenue:											
Police CFF Fees	$ -						$ 651,925	7130	700	M483	9131
Expense:											
Construction-City	$ -						$ 651,925	7130	070	M483	6040
7130-Information Technology											
Revenue:											
General Fund Supplemental	$ 819,680	$ -	7130	700	M483	9010	$ 819,680	7130	700	M483	9010
Federal Grant - Byrne Justice 2006	$ 79,092	$ -	7130	070	M552	3508	$ 79,092	7130	070	M552	3508
Federal Grant - COPS 2006 Technology	$ 394,891	$ -	7130	070	M780	3508	$ 394,891	7130	070	M780	3508
Expense:											
Construction-City	$ 819,680	$ -	7130	070	M483	6040	$ 819,680	7130	070	M483	6040
Construction-City	$ 79,092	$ -	7130	070	M552	6040	$ 79,092	7130	070	M552	6040
Construction-City	$ 394,891	$ -	7130	070	M780	6040	$ 267,522	7130	070	M780	6040
Construction-County	$ -						$ 127,369	7130	070	M780	6042

Note: Service Credits for Project Managers should go to 7130-070-M483-6010

Costs Accounted for on City's Books

CITY COSTS	$ 2,147,604
COUNTY COSTS	$ 210,237
TOTAL	$ 2,357,841

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-429

RESOLUTION CONFIRMING THE DIAGRAM AND ASSESSMENTS, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6

WHEREAS, the City of Modesto has by Resolution No. 2007-310 adopted on May 22, 2007, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6 under the provisions of the "Landscaping and Lighting Act of 1972", and

WHEREAS, the cost for Fiscal Year 2007-08 is $26.00 annual assessment per lot, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS, the City of Modesto has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby orders the levy and collection of $26.00 annual assessment per lot within Landscape Maintenance Assessment District No. 1 for Dry Creek Meadows Subdivisions Nos. 1-6 for the 2007-08 Fiscal Year, and that a certified copy of this resolution shall be

delivered to the Auditor–Controller of the County of Stanislaus for placement of such charges on the 2007-08 County Tax Roll.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-430

RESOLUTION CONFIRMING THE DIAGRAM AND ASSESSMENTS, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2

WHEREAS, the City of Modesto has by Resolution No. 2007-311, adopted on May 22, 2007, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units No. 1 & 2, under the provisions of the "Landscaping and Lighting Act of 1972", and

WHEREAS, the cost for Fiscal Year 2007-08 is $120.30 per acre for commercial property and $23.68 for each residential property, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS the City of Modesto has further determined that the charges are in compliance with all laws pertaining to the levy of such charges.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby orders the levy and collection of $120.30 per acre for commercial property and $23.68 for each residential property within Landscape Maintenance

Assessment District No. 2 for Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units 1& 2 for the 2007-08 fiscal year, and that a certified copy of this resolution shall be delivered to the Auditor–Controller of the County of Stanislaus for placement of such charges on the 2007-08 County Tax Roll.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh, O'Bryant

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-431

RESOLUTION ACCEPTING THE 2007 REPORT FOR WATER QUALITY RELATIVE TO PUBLIC HEALTH GOALS (PUBLIC HEALTH GOALS REPORT) AS REQUIRED BY TITLE 22 OF THE CALIFORNIA HEALTH AND SAFETY CODE

WHEREAS, Title 22 of the California Health and Safety Code requires that all large water system providers issue a Confidence Report on water quality standards in their service area, and

WHEREAS, said Consumer Confidence Report is required to be delivered to customers by July 1, 2007, and

WHEREAS, in addition to the above requirement, any water system with more than 10,000 service connections is mandated to issue a report every three (3) years documenting any violations of a Public Health Goal for potable water, and

WHEREAS, the water provider is required to hold a public hearing on the Public Health Goals Report and accept public comments at that time, and

WHEREAS, said Public Health Goals Report has been prepared and the matter set for a public hearing to be held on July 10, 2007, 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 for the purpose of receiving public comments.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that following the receipt of public comment, and the 2007 Public Health Goals Report having been duly considered, said report is hereby accepted.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-432

A RESOLUTION APPROVING A CFF RIGHT OF WAY REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND MARY KRUSE TRUST, ARG INVESTMENTS, LLC, A LIMITED LIABILITY COMPANY, AND HILLSBOROUGH COMMERCIAL LP, A LIMITED PARTNERSHIP, WITH WITH A MAXIMUM REIMBURSEMENT AMOUNT OF $147,002 FOR RIGHT OF WAY FOR THE FUTURE PELANDALE/CLARATINA EXPRESSWAY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto's General Plan calls for Pelandale Avenue/Claratina Road to be constructed as a Class A expressway, and

WHEREAS, the future Claratina Road will be developed as an expressway and additional right of way is necessary for the future realignment of Claratina Road, and

WHEREAS, Mary Kruse Trust, ARG Ivestments, LLC, a Limited Liability Company, and Hillsborough Commercial , LP, a Limited Partnership, (Collectively the "Developer") has a legal interest in a certain tract of land located west of McHenry Avenue and north of Claratina Avenue in the Hetch Hetchy Specific Plan area of the City of Modesto, commonly known as the CARMAX ("Project"), and

WHEREAS, as a condition of approval of the Project, the Developer is required to dedicate 26,527 square feet of right of way for the future Pelandale/Claratina Expressway (the "Dedication"), and

WHEREAS, the Dedication will be made through the recordation of the Parcel Map for the Project ("Parcel Map") and the Dedication will be effective upon recordation of said Parcel Map, and

WHEREAS, a portion of the Dedication is reimbursable through the City's Capital Facilities Fees ("CFF") program, and

WHEREAS, the City and the Developer are proposing to enter into a CFF Right of Way Reimbursement Agreement ("Agreement") between the City of Modesto and Developer to provide for reimbursement for (a portion of) the right of way to be dedicated, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $147,002, which will be allocated from the Streets CFF fund not later than fifteen (15) days after recordation of the Parcel Map for the Project or December 1, 2007, whichever occurs later.

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

1. The proposed CFF Right of Way Reimbursement Agreement between the City of Modesto and Mary Kruse Trust, ARG Investments, LLC, and Hillsborough Commercial, LP, ("Project") is consistent with the Modesto Urban Area General Plan.
2. The reimbursement for the proposed right of way is included in the 2003 CFF program.
3. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the General Plan Master EIR ("Program EIR") and no new environmental document or findings are required by CEQA.

4. There are no substantial changes proposed in the Project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR, are required.
5. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR, are required.
6. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:
    a. one or more significant effects which is not discussed in the Program EIR; or,
    b. significant effects which were previously examined will be substantially more severe than previously shown; or,
    c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,
    d. mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would

substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

BE IT FURTHER RESOLVED that the CFF Right of Way Reimbursement Agreement between the City of Modesto and Mary Kruse Trust, ARG Investments, LLC, and Hillsborough Commercial, LP is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24 day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: R. Steven Ascalá
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-433

A RESOLUTION APPROVING TASK ORDER NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH GOODWIN CONSULTING GROUP FOR THE ADMINISTRATION OF EXISTING COMMUNITY FACILITIES DISTRICTS

WHEREAS, the City Council is desirous of administering and maintaining its existing Community Facilities Districts ("CFDs"), and

WHEREAS, on December 12, 2006, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services with Goodwin Consulting Group for the administration of CFDs, and

WHEREAS, Goodwin Consulting Group ("Consultant") has prepared Task Order No. 1 ("Task Order") for the administration of the City's existing CFDs, attached as Exhibit "A", and

WHEREAS, administration of existing CFDs is funded through an annual maintenance tax as described in the Rate and Method of Apportionment of each CFD,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Task Order No. 1, attached as **Exhibit "A"**, hereto is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By R. Peterson, Asst.
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

City of Modesto
TASK ORDER NO. 1
for
Goodwin Consulting Group's
Master Professional Services Agreement for Consultant Services

Annual Administration
Carver Bangs CFD No. 1998-2
Coffee-Claratina CFD No. 2000-2
Fairview Village CFD No. 2003-1
North Beyer Park CFD No. 1997-1
North Beyer #2 CFD No. 2007-1
North Pointe CFD No. 2002-1
Village One CFD No. 1996-1
Village One CFD No. 2004-1
Enterprise Business Park CFD No. 1998-1

This Task Order No. 1 is made and entered into by and between the City of Modesto, a municipal corporation (hereinafter "CITY"), and Goodwin Consulting Group., a California Corporation (hereinafter "CONSULTANT") and is effective as of _____.

RECITALS

A. CONSULTANT has entered into a Master Professional Services Agreement for Consultant Services, (hereinafter "Agreement"), dated February 13, 2007 ("AGREEMENT") with the CITY, by which the CONSULTANT has agreed to provide professional administration and financial services for the annual administration of eight existing Community Facilities Districts, which is incorporated herein by reference.

B. At the request of CITY and in compliance with the terms of the AGREEMENT, CONSULTANT has prepared the Task Order No. 1, a copy of which is attached hereto as Exhibit A.

C. CITY and CONSULTANT desire that CONSULTANT perform the services as identified in the attached Task Order.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION OF MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Professional Services Agreement, unless expressly modified by this Task Order. The AGREEMENT and this Task Order shall, to the fullest extent possible, be read and considered as fully integrated documents and shall be interpreted so as to avoid inconsistencies, comply with all applicable laws and ensure that the objectives of the parties will be fully realized.

   Nothing in this Task Order is intended to supersede, terminate, modify or otherwise affect any provision of the AGREEMENT, except to the extent that a provision of this AGREEMENT is in direct and irreconcilable conflict with a provision of the AGREEMENT. Then, and only in that

event, the provisions of the AGREEMENT shall prevail over the contradictory provision of the Task Order.

2. **SCOPE OF SERVICES**. CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not listed in this Task Order, without the prior written consent of CITY.

3. **TIME OF PERFORMANCE**. CONSULTANT shall commence performance within five (5) working days after receipt of a Notice to Proceed from City, and shall complete all required services no later than the dates set forth in Exhibit "A".

4. **COMPENSATION**. For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed $77,500 annually. CONSULTANT shall be paid at the times and in the manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Task Order..

5. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the CONSULTANT and CITY. This Task Order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-434

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN MINER JOAQUIN BUILDING CORPORATION AND THE CITY OF MODESTO TO DEFER FORMATION OF THE COMMUNITY FACILITIES DISTRICT TO FINAL OCCUPANCY FOR THE MODESTO COMMERCE BANK LOCATED AT THE NORTHEAST CORNER OF DALE ROAD AND PELANDALE AVENUE AND AUTHORZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING

WHEREAS, Miner Joaquin Building Corporation is desirous of constructing a Modesto Commerce Bank branch on a three acre parcel located at the northeast corner of Dale Road and Pelandale Avenue which is located in the Kiernan Business Park South, KBPS area; and

WHEREAS, the following condition was placed on the parcel map for Miner Joaquin Building Corporation,

> "Prior to pulling a building permit, developer shall take all actions reasonably necessary to secure and establish a City Mello-Roos Community Facilities District ("CFD") for the area bounded by Dale Road, Pelandale Avenue, Bangs Road and American Avenue for the capital improvements and ongoing maintenance of a regional storm drain basin, right-of-way dedication and improvements for a third lane on Dale Road and the landscaping in the public right-of-way adjacent to the project site to be financed by said CFD or, if said CFD has been established for the area bounded by Dale Road, Pelandale Avenue, Bangs Road and American Avenue, developer shall take all actions reasonably

necessary to annex its development to said CFD, which shall actually result in annexation of its development to said CFD at the tax rate for the zone of said CFD to which the development is ultimately annexed; or alternatively, in the event complete annexation does not occur for any reason, developer may provide a fund-in mechanism for said capital improvements and ongoing maintenance to the same general standard as other similar capital improvements and ongoing maintenance financed by said CFD, subject to approval of the funding mechanism by the City, such approval not to be unreasonably withheld. "; and

WHEREAS, on or about October 6, 2006, Miner Joaquin Building Corporation placed a deposit in the amount of $64,500 with the City to form a CFD; and

WHEREAS, said CFD is not ready to be formed until an Infrastructure Finance Plan is developed, and

WHEREAS, the City is diligently working to develop the list of facilities and the financing plan for Kiernan Business Park South, and

WHEREAS, among the goals of the City is to encourage economic development and provide for the timely installation and maintenance of public facilities in the interest of the public health, safety, and welfare, and

WHEREAS, this situation is distinctive in that the Infrastructure Finance Plan was not complete prior to forming the CFD, and

WHEREAS, staff recommends the City Council approve a Memorandum of Understanding between Miner Joaquin Building Corporation and the City of Modesto that outlines the above recitals and conditions outlining this circumstances of this project,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto, that it hereby makes the following findings:

SECTION 1. The above recitals are true and correct.

SECTION 2. There are valid circumstances that have delayed the formation of a CFD for the Kiernan Business Park South area, of which have been outside the control of Miner Joaquin Building Corporation.

SECTION 3. Miner Joaquin Building Corporation has worked with the City to form said CFD and a building permit may be issued with the intent that said CFD will be formed prior to final occupancy.

SECTION 4. The City Manager, or his designee, is hereby authorized to execute the Memorandum of Understanding between the City of Modesto and Miner Joaquin Building Corporation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Flores Alcala
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-435

A RESOLUTION APPROVING AN INTERAGENCY AGREEMENT WITH THE COUNTY OF STANISLAUS TO PROVIDE SANITARY SEWER SERVICE IN THE ROBERTSON ROAD NEIGHBORHOOD, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto owns, operates and maintains Modesto Sanitary Sewer District No. 1 ("Sewer District"), which is designed and intended to serve residents and business located within the City of Modesto ("Sewer District"), and

WHEREAS, there exists a substantial unincorporated County island within the CITY's limits which is commonly known as the Robertson Road Neighborhood, generally located south of Robertson road, east of Carpenter Road, west of Hays Street, and north of John Street containing 334 parcels on 96.8 acres and shown on **Exhibit A** hereto and incorporated herein by reference ("Infill Area"), and

WHEREAS, the County of Stanislaus ("COUNTY") has requested that CITY'S Sewer District provide sewer service to the Infill Area, and

WHEREAS, COUNTY has constructed sanitary sewer lines within the Infill Area and CITY has accepted said sanitary sewer lines on behalf of the public for public use, and

WHEREAS, CITY is prepared to provide sewer services to the property owners within the Infill Area.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the interagency agreement between the City of Modesto and the County of Stanislaus to provide sanitary sewer service in the Robertson Road Neighborhood.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

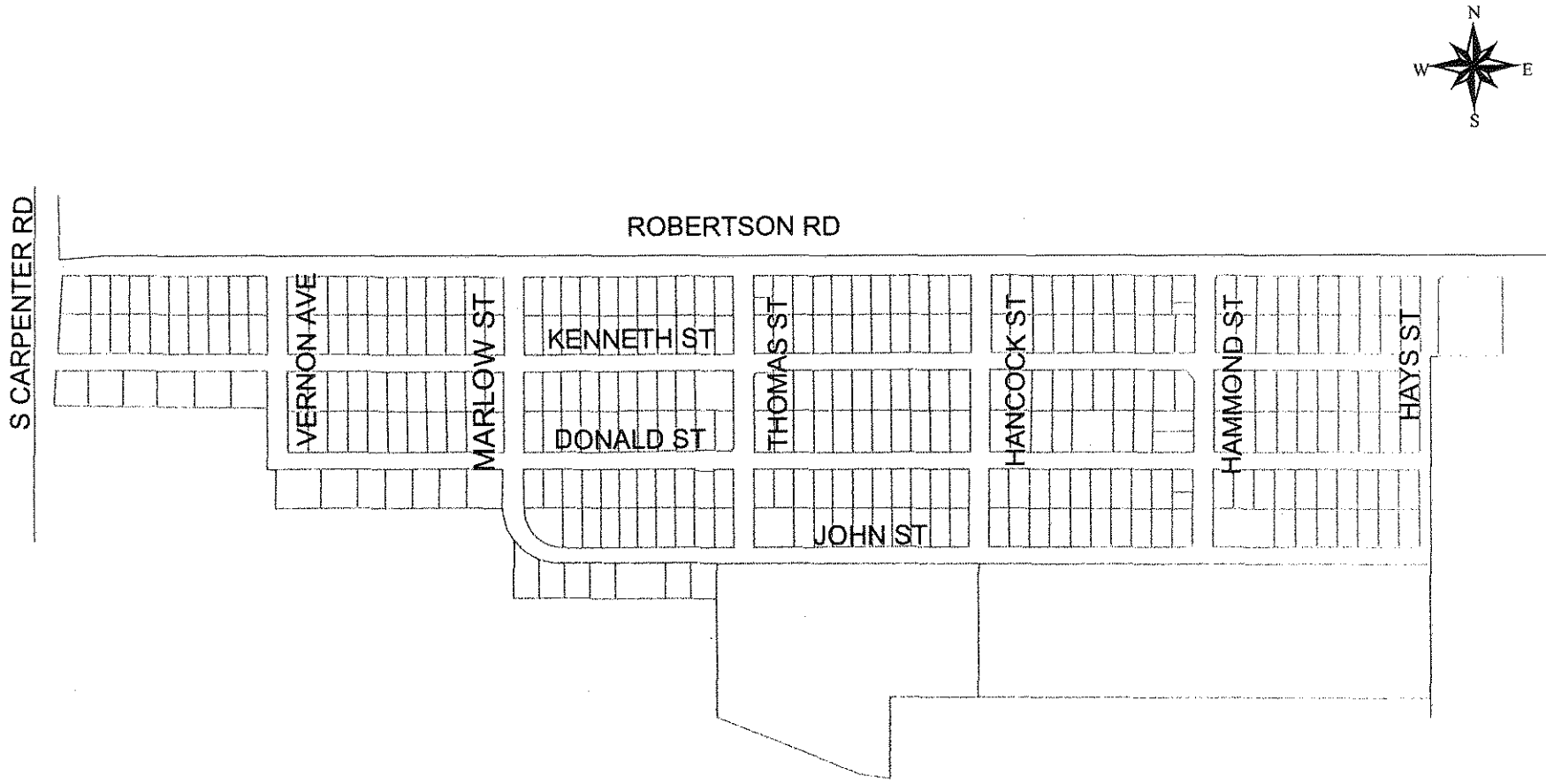
AYES:	Councilmembers:	Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A



ROBERTSON NEIGHBORHOOD CONSTRUCTION
(SANITARY SEWER IMPROVEMENTS)
PROJECT

Stanislaus County

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-436

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF VARIABLE FREQUENCY DRIVE UNITS FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO WILLE ELECTRIC SUPPLY, CO., INC., MODESTO, CA FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $43,209

WHEREAS, variable frequency drive (VFD) units are used to stabilize water pressure in the City's water system, and

WHEREAS, a VFD unit controls the motor speed of the well pump, which allows a variance in water flow from the controlled station, and

WHEREAS, this controlled water flow allows the system to maintain a more level water pressure without large fluctuations, and

WHEREAS, VFD units also start the pump at a softer rotation (ramp speed), which helps prevent water hammer surging, thus reducing electrical costs, and

WHEREAS, historically, approximately twenty percent (20%) of the VFD units in use need to be replaced on an annual basis, due to wear, and

WHEREAS, on February 7, 2006, Council approved Resolution No. 2006-069 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of VFD drive units for the Public Works Department, Water Division, and

WHEREAS, on July 11, 2006, the Purchasing Division issued Request for Bid No. 0506-23 for the purchase of VFD units to twenty-five (25) prospective bidders, eight (8) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on August 15, 2006, RFB's were formally opened in the City Clerk's office. Of the twenty-five (25) prospective bidders, two (2) companies chose to respond, and

WHEREAS, Based on being deemed the lowest responsive and responsible bidder, City staff recommends the award of bid and contract for the purchase of Variable Frequency Drive Units for the Public Works Department, Water Division, to Wille Electric Supply Co., Inc., Modesto, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $43,209, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contracts for the purchase of VFD units for the Public Works Department, Water Division, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of Variable Frequency Drive Units for the Public Works Department, Water Division, to Wille Electric Supply Co., Inc., Modesto, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $43,209.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the purchase of VFD units for the Public Works Department, Water Division, to Wille Electric Supply Co., Inc., for a two (2) year

agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $43,209.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-437

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING OF TICKET PRINTING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, TRANSIT DIVISION, TO DILLINGHAM TICKET COMPANY, LOS ANGELES, CA, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $16,876.

WHEREAS, seven (7) different types of tickets are being printed for the Modesto Area Express (MAX) program, and

WHEREAS, the transit tickets were last bid in 2004 for a three-year contract, and

WHEREAS, the City provides specifications and artwork for each type of ticket and requires deliveries to be made to specific locations at specified times according to the needs of the Transit Division, and

WHEREAS, on February 27, 2007, Council approved Resolution No. 2007-143 authorizing the Purchasing Manager to issue formal Request for Proposal (RFP) for the purchase of ticket printing services for the Transit Division, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on March 30, 2007, the Purchasing Division issued Request for Proposal No. 0607-36 for the purchase of Ticket Printing Services to twenty-seven (27) prospective proposers, of which sixteen (16) were local companies, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, on May 1, 2007, RFP's were formally opened in the City Clerk's office. Of the twenty-seven (27) prospective proposers, two companies chose to respond, and

WHEREAS, in May 2007, an evaluation committee composed of staff from the Transit Division assessed the responses. The Purchasing Division facilitated the evaluation process, and

WHEREAS, proposal evaluation packets were given to each committee member to individually review and score, and

WHEREAS, based on being ranked the highest in total evaluation criteria, the evaluation committee recommended award of proposal and contract for the furnishing of Ticket Printing Services to Dillingham Ticket Company, Los Angeles, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $16,876, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of proposal and contract for the furnishing of ticket printing services for the Public Works Department, Transit Division, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the furnishing of Ticket Printing Services for the Public Works Department, Transit Division, to Dillingham Ticket Company, Los Angeles, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $16,876.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the furnishing of Ticket Printing Services for the Public Works Department, Transit Division, to Dillingham Ticket Company, Los Angeles, CA, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $16,876.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-438

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE FURNISHING OF LABORATORY ANALYTICAL TESTING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION, TO ALPHA ANALYTICAL LABORATORIES, INC., DUBLIN, CA, AS THE "PRIMARY" CONTRACTOR, TESTAMERICA ANALYTICAL TESTING CORP., MORGAN HILL, CA, AS THE "SECONDARY" CONTRACTOR AND FGL ENVIRONNMENTAL, STOCKTON, CA, AS THE "THIRD" CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $74,073

WHEREAS, on September 10, 2001, the Regional Water Quality Control Board (Regional Board) issued a Water Code Section 13267 letter to the City requiring submittal of ambient receiving water and effluent data regarding priority pollutants, and

WHEREAS, the 13267 letter requirements are in addition to the City's existing National Pollution Discharge Elimination System (NPDES) permit requirements for ambient and effluent monitoring, and

WHEREAS, all samples required by the Regional Board must be Environmental Laboratory Accreditation Program certified, and

WHEREAS, on March 28, 2006, Council approved Resolution No. 2006-176 authorizing the Purchasing Supervisor to issue formal Request for Bids (RFB) for the furnishing of laboratory analytical testing services for the Public Works Department, Water Quality Control Division, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on March 29, 2007, the Purchasing Division issued Request for Bid No. 0607-33 for the furnishing of laboratory analytical testing services to

twenty-eight (28) prospective bidders, five (5) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on May 22, 2007, RFB's were formally opened in the City Clerk's office. Of the twenty-eight (28) prospective bidders, five (5) companies chose to respond, and

WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bid and contracts for the furnishing of Laboratory Analytical Testing Services for the Public Works Department, Water Quality Control Division, to Alpha Analytical Laboratories, Inc., Dublin, CA, as the "primary" contractor, TestAmerica Analytical Testing Corp., Morgan Hill, CA., as the "secondary" contractor and FGL Environmental, Stockton, CA, as the "third" contractor, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $74,073, and

WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contracts for the furnishing of laboratory analytical testing services for the Public Works Department, Water Quality Control Division, conforms to code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the furnishing of Laboratory Analytical Testing Services for the Public Works Department, Water Quality Control Division, to Alpha Analytical Laboratories, Inc., Dublin, CA, as the "primary" contractor,

TestAmerica Analytical Testing Corp., Morgan Hill, CA, as the "secondary" contractor and FGL Environmental, Stockton, CA, as the "third" contractor, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $74,073.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the furnishing of Laboratory Analytical Testing Services for the Public Works Department, Water Quality Control Division, Alpha Analytical Laboratories., Inc., Dublin, CA, as the "primary" contractor, TestAmerica Analytical Testing Corp., Morgan Hill, CA, as the "secondary" contractor and FGL Environmental, Stockton, CA, as the "third" contractor, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $74,073.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: R. Flowers
Susana Alcalá Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-439

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF NINE (9) HONDA POLICE MOTORCYCLES TO CARMICHAEL HONDA MOTORSPORTS, CARMICHAEL, CA, FOR A TOTAL ESTIMATED COST OF $142,009.

WHEREAS, the Public Works Department, Fleet Services Division has requested nine (9) new, current year/model, Honda Police Motorcycles, and

WHEREAS, the Modesto Police Department currently has nine (9) Harley Davidson Police motorcycles. Based on a two (2) year replacement cycle, these motorcycles are scheduled to be replaced this year, and

WHEREAS, rotation at the end of the two-year warranty shall result in a higher resale value and lower lifecycle costs on these motorcycles, and

WHEREAS, the new Honda motorcycles come with a three (3) year warranty and will further improve the lifecycle costs, and

WHEREAS, approximately one half of the police motorcycles have been replaced with Honda motorcycles, and this purchase will complete the motorcycle fleet change to Honda motorcycles, and

WHEREAS, on August 2, 2006, Council approved Resolution No. 2006-245 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 06/07 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, on May 16, 2007, the Purchasing Division issued RFB No. 0607-50 for the purchase of nine (9) Honda police motorcycles to nineteen (19) prospective

bidders, one (1) of which is a local company, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on June 12, 2007, RFB's were formally opened in the City Clerk's office, and

WHEREAS, of the nineteen (19) prospective bidders, two (2) companies chose to respond. All bidders provided responsive and responsible bids, and

WHEREAS, based on being deemed the lowest responsive and responsible bidder, City staff recommends the award of bid and contract for the purchase of nine (9) Honda police motorcycles to Carmichael Honda Motorsports, Carmichael, CA, for the total estimated cost of $142,009, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, the award of bid and contract for the purchase of nine (9) Honda police motorcycles conforms to the Modesto Municipal Code, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of nine (9) Honda police motorcycles to Carmichael Honda Motorsports, Carmichael, CA, for the total estimated cost of $142,009.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for the purchase of nine (9) Honda police motorcycles to Carmichael Honda Motorsports, Carmichael, CA, for the total estimated cost of $142,009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: R. Stevens Ahlp
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-440

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 budget have been adjusted as shown on the Budget Request form(s).

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Dunbar, who moved its adoption, 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, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: R. Brooks Acalp
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-441

A RESOLUTION ESTABLISHING GUIDELINES FOR REDUCED UTILITY RATES FOR LOW-INCOME SENIOR CITIZENS AND LOW-INCOME DISABLED PERSONS FOR METERED AND UNMETERED WATER SERVICES AND RESCINDING RESOLUTION NO. 2005-028.

WHEREAS, Sections 11-6.05 and 11-6.06 of the Modesto Municipal Code authorize the Council, by resolution, to establish charges for metered and unmetered water services and other utility charges, and

WHEREAS, by Resolution No. 2004-627 adopted on November 23, 2004, and which became effective January 1, 2005, the City Council rescinded all previous water resolutions, established a single rate base, established fees for the provision of water, and all fees associated with water operations and management, and various other Council resolution establish rates for sewer, storm drain, and garbage service, and

WHEREAS, Section No. 11 of Resolution No. 2004-627 states that from time to time, by separate resolution the City may enact subsidies for certain categories of ratepayers, as the City Council may see fit, provided that the source(s) of funds to implement such subsidies are source(s) separate from the water enterprise fund, and

WHEREAS, Resolution No. 2005-028, adopted by the Council on January 11, 2005, established guidelines for reduced utility rates for low-income senior citizens and low-income disabled persons for metered and unmetered water services and

WHEREAS, the Finance Committee met on June 25, 2007, and supported staff's recommendation, and

WHERESAS, by an agenda report to the City Council from the Finance Department, dated July 10, 2007, City staff recommended the current utility discount program guidelines be amended as necessary to update the current income limit to reflect the amount established by the Department of Housing and Urban Development (HUD)

for up to a two person household at 50% of Annual Median Area Income level and that the income level adjust automatically each year to equal the HUD 50% Median Area Income approved levels for Stanislaus County,

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

SECTION 1. UTILITY DISCOUNT RATES AND REQUIREMENTS FOR LOW-INCOME SENIOR CITIZENS AND LOW-INCOME DISABLED PERSONS. The following utility discount rates and requirements for low-income senior citizens and low-income disabled persons shall apply as follows:

Annual Income Levels	Discount
Up to $22,400 (Up to 2-person household)	25% for water, sewer, storm drain and garbage

Program Requirements:

- Be 60 yrs or older and meet income levels.
- Have a documented medical card coded for disability.
- Reside at the address receiving the discount.

Program participants will be re-certified every two-years for eligibility verifying eligibility with a birth certificate, proof of income, and Medicare card. Disabled citizens will verify eligibility with a medical card coded with a disability and must provide proof of income. The income level will be adjusted each year to equal the HUD 50% Median Area Income approved levels for Stanislaus County.

SECTION 2. RESCIND. Resolution No. 2005-08 is hereby rescinded effective July 31,2007

SECTION 3. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after August 1, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By R. Steven Hast
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-442

A RESOLUTION ALLOCATING $250,000 IN FY 05-06 HOME ENTITLEMENT INVESTMENT PARTNERSHIP PROGRAM FUNDS FOR AFFORDABLE HOUSING PRELIMINARY PRE-DEVELOPMENT WORK AT 416 DOWNEY AVENUE; A PROPERTY OWNED BY THE CITY OF MODESTO.

WHEREAS, the property and facility at 416 Downey Avenue is currently owned by the City of Modesto and managed by the Parks, Recreation and Neighborhoods Department, and

WHEREAS, the property consists of a main facility that is approximately 2,100 square feet, two large out buildings, and a small paved rear parking area, and

WHEREAS, the facility is a decommissioned fire station and is zoned C-1 Neighborhood Commercial, and

WHEREAS, housing structures would be permissible with an approved conditional use permit, and

WHEREAS, in recent years, it has been used for a variety of community social service activities, and

WHEREAS, the most recent tenant of the property has been the Alzheimer's Affiliates of Stanislaus County, and

WHEREAS, in Spring 2006, the Alzheimer's Affiliates of Stanislaus contacted the City regarding a new rental agreement, and

WHEREAS, representatives of the organization asked about having minor repairs made to the building, and

WHEREAS, the Alzheimer's Affiliates organization is currently paying only utilities cost for the use of the building, and

WHEREAS, before negotiation of a rental agreement, City staff conducted an inspection of the building and premises, and

WHEREAS, this inspection showed significant safety and code violations that needed to be immediately addressed, and

WHEREAS, the Alzheimer's Affiliates of Stanislaus County provides primarily information and referral services, but does conduct a large fund raising event in November, and

WHEREAS, the City was able to have repairs made to the bottom floor of the facility in order for the Alzheimer's Affiliates organization to use the facility on a limited basis, and

WHEREAS, while repairs have been made to the facility to address immediate safety issues, a significant amount of repairs are needed, and

WHEREAS, staff estimates that a minimum of $213,300 in repairs is needed to bring the facility up to appropriate rental standards, and

WHEREAS, HOME funds may not be used for maintenance or repairs, as this is not an eligible expense per program regulations, and staff estimates that the cost of demolishing the facility is approximately $16,000, which is an eligible expense if done in conjunction with the development of affordable housing, and

WHEREAS, staff recommends that this site would be better used to provide affordable housing and would like to begin preliminary pre-development work which involves developing options for site use including a cost comparison of remodeling and expanding the existing facility or demolition of the existing structures and development of affordable housing, and

WHEREAS, conceivable development scenarios could include 10-12 units of housing for seniors or mixed use development with commercial on the bottom floor and housing on upper floors, and

WHEREAS, according to HUD Community Planning and Development (CPD) Notice 96-9, HUD will allow pre-development "soft costs" including, but not limited to: project cost

associated with environmental review, architectural & engineering services, public input process, property appraisal, preparation of processing for project loans and underwriting, preparation of work write-ups and work specifications and demolition, and

WHEREAS, staff is assisting the Alzheimer's Affiliates of Stanislaus County to find a suitable location to continue services, the organization provides information and referral and has very little walk-in traffic, and

WHEREAS, the City has a great need for more affordable housing for very-low and low-income households, and

WHEREAS, as indicated in the City of Modesto Housing Element, our share of regional housing needs for very-low income households is 3,360 units, and for low-income households 2,609 units, and

WHEREAS, the facility is within close proximity to the City's Senior Center, other senior communities and services, making the development of senior affordable housing a potential option, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on May 18, 2007, and supported staff's recommendation to allocate funding to pre-development activities for the property a 416 Downey Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation $250,000 in FY 05-06 HOME Entitlement Investment Partnership Program Funds for affordable housing preliminary pre-development work at 416 Downey Avenue; a property owned by the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Steven Scott
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-443

A RESOLUTION AMENDING THE FY 07-08 CAPITAL IMPROVEMENT BUDGET TO ESTABLISH A NEW CAPITAL IMPROVEMENT PROJECT, TO TRANSFER $250,000 IN HOME ENTITLEMENT INVESTMENT PARTNERSHIP FUNDS FROM 1170-800-8000-8003, HOME FUND RESERVE, TO FUND 2330, CAPITAL GRANTS PARKS FUND, AND TO ALLOCATE SAID FUNDING TO THE NEW PROJECT 2330-320-P056, 416 DOWNEY STREET, TO FULLY FUND THE DOWNEY STREET PROPERTY PRE-DEVELOPMENT ACTIVITIES.

WHEREAS, the property and facility at 416 Downey Avenue is currently owned by the City of Modesto and managed by the Parks, Recreation and Neighborhoods Department, and

WHEREAS, the most recent tenant has been the Alzheimer's Affiliates of Stanislaus County, and

WHEREAS, an inspection in 2006 showed significant safety and code violations that were immediately addressed, and

WHEREAS, staff estimates that a minimum of $213,300 in additional repairs is needed to bring the facility up to appropriate rental standards, and

WHEREAS, HOME funds may not be used for maintenance or repairs, as this is not an eligible expense per program regulations, and

WHEREAS, staff recommends that this site would be better used to provide affordable housing and would like to begin preliminary pre-development work which involves developing options for site use including a cost comparison of remodeling and expanding the existing facility or demolition of the existing structures and development of affordable housing, and

WHEREAS, conceivable development scenarios could include 10-12 units of housing for seniors or mixed use development with commercial on the bottom floor and housing on upper floors, and

WHEREAS, according to HUD Community Planning and Development (CPD) Notice 96-9, HUD will allow pre-development "soft costs" including, but not limited to: project cost

associated with environmental review, architectural & engineering services, public input process, property appraisal, preparation of processing for project loans and underwriting, preparation of work write-ups and work specifications and demolition, and

WHEREAS, the City has a great need for more affordable housing for very-low and low-income households, and

WHEREAS, the facility is within close proximity to the City's Senior Center, other senior communities and services, making the development of senior affordable housing a potential option, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on May 18, 2007, and supported staff's recommendation to appropriate funding for pre-development activities for the 416 Downey Avenue property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 07-08 Capital Improvement budget to transfer $250,000 in HOME Entitlement Investment Partnership Funds from 1170-800-8000-8003, HOME Fund Reserve, to Fund 2330, Capital Grants Parks Fund, and to allocate said funding to the new project 2330-320-P056, 416 Downey Street, to fully fund the Downey Street Property pre-development activities.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-444

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) FOR PRE-DEVELOPMENT ACTIVITIES FOR 416 DOWNEY AVENUE PROJECT, AS REQUIRED BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, AND THE DIRECTOR OF PARKS, RECREATION AND NEIGHBORHOODS, OR HIS DESIGNEE, TO EXECUTE THE MOU.

WHEREAS, the property and facility at 416 Downey Avenue is currently owned by the City of Modesto and managed by the Parks, Recreation and Neighborhoods Department, and

WHEREAS, the most recent tenant has been the Alzheimer's Affiliates of Stanislaus County, and

WHEREAS, an inspection in 2006 showed significant safety and code violations that were immediately addressed, and

WHEREAS, staff estimates that a minimum of $213,300 in additional repairs is needed to bring the facility up to appropriate rental standards, and

WHEREAS, HOME funds may not be used for maintenance or repairs, as this is not an eligible expense per program regulations, and

WHEREAS, staff recommends that this site would be better used to provide affordable housing and would like to begin preliminary pre-development work which involves developing options for site use including a cost comparison of remodeling and expanding the existing facility or demolition of the existing structures and development of affordable housing, and

WHEREAS, conceivable development scenarios could include 10-12 units of housing for seniors or mixed use development with commercial on the bottom floor and housing on upper floors, and

WHEREAS, according to HUD Community Planning and Development (CPD) Notice 96-9, HUD will allow pre-development "soft costs" including, but not limited to: project cost

associated with environmental review, architectural & engineering services, public input process, property appraisal, preparation of processing for project loans and underwriting, preparation of work write-ups and work specifications and demolition, and

WHEREAS, the City has a great need for more affordable housing for very-low and low-income households, and

WHEREAS, the facility is within close proximity to the City's Senior Center, other senior communities and services, making the development of senior affordable housing a potential option, and

WHEREAS, in order to meet HUD's requirements for committing funds, the City must execute a written agreement reserving a specific amount of funds to a specific local project per Section 24 of the Code of Federal Regulations (CFR), and

WHEREAS, the written agreement must ensure that expenditures will be in compliance with the requirements of 24 CFR part 92,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Memorandum of Understanding (MOU) for Pre-development Activities for 416 Downey Avenue Project, as required by the federal Department of Housing and Urban Development.

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

BE IT FURTHER RESOLVED that the Director of Parks, Recreation and Neighborhoods, or his designee, is hereby authorized to execute the Memorandum of Understanding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Flores, 7/27/07
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-445

RESOLUTION AMENDING RESOLUTION NO. 2007-230 TITLED "A RESOLUTION APPROVING A GRANT APPLICATION FOR $50,000 FROM THE LAND AND WATER CONSERVATION FUND FOR A PORTION OF THE TRAIL IN THE GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT" TO 1) AMEND THE PROJECT DESCRIPTION TO THE VIRGINIA CORRIDOR, SPECIFICALLY FOR INSTALLATION OF 615 FEET OF LINEAR TRAIL FROM THE SOUTHERN PORTION OF BOWEN AVENUE CONSTRUCTING SOUTHWARD AND 2) ADD STATE REQUIRED ADDITIONAL LANGUAGE STATING THAT THE PROJECT IS COMPATIBLE WITH THE LAND USE PLANS OF THOSE JURISDICTIONS IMMEDIATELY SURROUNDING THE PROJECT

WHEREAS, the Congress under Public law 88-578 has authorized the establishment of a Federal Land and Water Conservation Fund Grant-In-Aid program and its political subdivisions for acquiring lands and developing facilities for public outdoor recreation purposes, and

WHEREAS, the California Department of Parks and Recreation is responsible for administration of the program in the State, setting up necessary rules and procedures governing applications by local agencies under the program, and

WHEREAS, said adopted procedures established by the California Department of Parks and Recreation require the applicant to certify by resolution the approval of a grant application and the availability of eligible matching funds prior submission of said grant application to the State, and

WHEREAS, staff has submitted an application for $50,000 in funding from the Land and Water Conservation Fund for the Virginia Corridor for installation of 615 feet of Linear Trail from the southern portion of Bowen Avenue constructing southward, and

WHEREAS, the proposed Virginia Corridor Trailway Project (the "Project") is consistent with the Statewide Comprehensive Recreation Resources Plan *California Outdoor recreation Plan – 2002,* and

WHEREAS, the Project must be compatible with the land use plans of those jurisdictions immediately surrounding the Project,

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

1. The filing of a grant application for $50,000 from the Federal Land and Water Conservation Fund Program is hereby approved.

2. The Council hereby certifies that said agency has matching funds from the following source: local Parks Capital Facilities Fees; and that said agency can finance 100 percent of the Project, half of which will be reimbursed.

3. The Council hereby certifies that the Project is compatible with the land use plans of those jurisdictions immediately surrounding the Project.

4. The City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RANGE	TITLE
120	Accountant I
	Assistant Electrician
	Fire Prevention Technician II
	Laboratory Analyst I
	Senior Equipment Operator
	Traffic Painter Crewleader
	Wastewater Treatment Plant Operator I
	Water Resource Specialist I
	Welder/Fabricator
121	
122	**Equipment Mechanic**
	Fire Equipment Mechanic
	Law Enforcement Academy Recruit
	Tree Trimmer Crewleader
123	Airport Maintenance Crewleader
	Civil Engineering Technician II
	Identification Technician I
	Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I
	Cross Connection Specialist
	Environmental Compliance Inspector I
	Heavy Equipment Mechanic
	Laboratory Analyst II
	Operation and Maintenance Crewleader
	Planning Assistant
	Plant Mechanic
	Wastewater Treatment Plant Operator II
	Water Conservation Specialist
	Water Production Operator I
	Water Resource Specialist II
	Water Services Equipment Operator I
	Water Distribution Operator III
125	Crime Analyst

RANGE	TITLE
126	**Equipment Mechanic Crewleader**
	Housing Financial Specialist
	Housing Rehabilitation Specialist I
	Wastewater Treatment Plant Operator III
127	Civil Engineering Assistant
	Identification Technician II
	Senior Fire Equipment Mechanic
128	**Building Inspector I**
	Community Development Program Specialist II
	Electrician
	Environmental Compliance Inspector II
	Heavy Equipment Mechanic Crewleader
	Instrument Repair Technician
	Water Production Operator II
	Water Services Equipment Operator II
129	
130	Construction Inspector
	Housing Rehabilitation Specialist II
	Laboratory Analyst III
	Project Coordinator
	Senior Wastewater Treatment Plant Operator
131	Senior Civil Engineering Assistant
132	**Building Inspector II**
	Environmental Review Specialist
	Senior Environmental Compliance Inspector
	Water Division Crewleader
133	
134	Deputy Fire Marshal
	Plan Review Engineer
	Senior Construction Inspector
136	**Senior Building Inspector**

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-446

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO MANAGEMENT AND CONFIDENTIAL ASSOCIATION (MCMA) FOR A TERM OF JULY 24, 2007 THROUGH JUNE 23, 2008.

WHEREAS, the Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Confidential and Management Association (MCMA) expired on June 25, 2007, and

WHEREAS, representatives of the CITY and the MCMA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated July 12, 2007, a copy of which report is on file in the office of the City Clerk, the CITY and MCMA have reached agreement on a new MOU which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. SALARY. A minimum of 2.5% across-the-board salary increase effective July 24, 2007, subject to Pay for Performance criteria, with a maximum increase equal to any across-the-board increase granted employees represented by the Modesto City Employees' Association (MCEA) or the Modesto Police Non-Sworn Association (MPNSA) during the term of this MOU. This provision for a maximum increase equal to MCEA or MPNSA shall expire on June 23, 2008.

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	7/24/07
Family	$890
Single	495
Opt Out	400

SECTION 3. BILINGUAL COMPENSATION. Compensation for those employees certified and assigned as Bilingual translators shall change from the current three (3) hours of compensatory time off per payperiod, to $50.00 per payperiod and shall be available to all non-exempt employees.

SECTION 4. LABOR MARKET SURVEY. A market survey is to be undertaken and is anticipated to commence no later than October 15, 2007. The parties will meet and confer on the labor market agencies to be surveyed. Final labor market data is anticipated to be available for subsequent negotiations by March 24, 2008, and the parties agree to expeditiously begin negotiations once the final data is available.

SECTION 5. RETIREE HEALTH PROGRAM. The parties have agreed to continue meeting and evaluating alternatives to the current Retiree Health Program structure. If the parties are able to identify an acceptable alternative, negotiations will commence on its implementation. MCMA has reiterated the Association's intention to link enhanced Retirement to Retiree Health negotiations.

SECTION 6. ADDITIONAL CHANGES. Other negotiated additions, deletions or amendments to the text of the Memorandum of Understanding deal with alternative work schedules, grievance procedure, bus passes, as well as pending items related to personnel rules and to succession planning, and

WHEREAS, the Council considered this matter at its meeting of July 24, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Confidential and Management Association (MCMA), which covers a term from July 24, 2007 through June 23, 2008, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Flores, Asst.
SUSANA ALCALA WOOD, City Attorney

MEMORANDUM
OF
UNDERSTANDING

between the

CITY OF MODESTO

and the

MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION

July 24, 2007
through
June 23, 2008

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MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MODESTO AND
THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION
July 24, 2007 – June 23, 2008

PREAMBLE

It is the purpose of this **Memorandum of Understanding** (hereinafter referred to as "MOU") to set forth the wages, hours and other terms and conditions of employment for employees represented by the **Modesto Confidential and Management Association** (hereinafter referred to as "MCMA").

ARTICLE 1. TERM

Term: The term of this MOU shall commence at 12:01 a.m. on **July 24, 2007**, and this MOU shall expire and otherwise be fully terminated at 12:00 a.m. (midnight) of **June 23, 2008.**

ARTICLE 2. CITY MANAGEMENT RIGHTS

The City of Modesto (hereinafter referred to as "CITY") retains the exclusive right, except as expressly stated herein, to operate and direct the affairs of the CITY in all of its various aspects, including, but not limited to, the right to direct the working forces; to plan and control all of the operations and services of the CITY; to determine the methods, means, and organizations by which such operations and services are to be conducted; to assign and transfer employees; to hire, promote, demote, suspend, discipline, discharge or relieve employees due to lack of work or other legitimate reasons; and to change or eliminate existing methods, equipment or facilities.

ARTICLE 3. REPRESENTATION

This MOU covers the employees in the position classifications of CITY, which MCMA is certified as representing, and MCMA is the formally recognized employee organization which has the exclusive right to represent said employees during the term of this MOU. **(See Exhibit 1: Classifications and Salary Ranges.)**

ARTICLE 4. RENEGOTIATIONS

A. Negotiations shall begin no later than ninety (90) calendar days prior to the termination date of this MOU. The parties shall notify one another of the names of their designated representatives at least thirty (30) days in advance of the first meeting.

B. When negotiating an MOU, MCMA shall be represented by no more than four (4) employees who shall be released from active duty and will not lose wages or benefits when negotiating. The Association may designate a professional representative to participate in negotiations.

MCMA employees shall have their work hours and/or duty days adjusted so that they will be on active duty during negotiations whenever possible. No employee shall receive overtime for time spent negotiating if it is not possible to adjust their work schedule. Participation in negotiations does not release any employee from responsibilities of their full-time employment requiring immediate attention or action (for example, scheduled court appearances or emergency call-back).

C. The CITY and MCMA agree to discuss the use of the methods and principles of Interest Based Negotiations (IBN) when a successor agreement to this MOU is negotiated. Discussions regarding the use of IBN shall occur at least nine (9) months prior to the expiration of this MOU.

Should the parties agree to use IBN to negotiate a successor agreement, the CITY will arrange for IBN training. The training shall be conducted at least four (4) months prior to the expiration date of this MOU. Prior to the training, the Association will designate no more than six (6) MCMA members (including a professional representative if applicable) to receive the training. At the CITY's option, the number of MCMA participants may be increased. This training may be conducted in conjunction with the training of other employees or other agencies.

ARTICLE 5. SALARY RATES AND STEP ADVANCEMENTS

The base salary ranges shown in **Exhibit 1 (Classifications and Salary Ranges)** shall be applicable for classifications in this Unit for the period commencing **July 24, 2007** and the salary rates shall be as provided in **Exhibit 2 (Schedule of Salary Ranges FY 07-08)** effective **July 24, 2007**. Classifications, Job Titles and Salary Ranges may be amended from time to time by Resolutions adopted by the City Council.

The salary rates designated in **Exhibit 2** reflect a three (3%) percent increase over the previous salary rates. The initial salary rates effective July 24, 2007, reflected a two and one-half (2.5%) percent increase and were subsequently adjusted upward by one-half (0.5%) percent, for a total of three (3%) percent. This additional adjustment was pursuant to the parties' agreement that MCMA's increase effective July 24, 2007 would be a minimum of two and one-half (2.5%) percent and a maximum equal to any across-the-board salary increase granted to the Modesto City Employees Association (MCEA) or the Modesto Police Non-Sworn Association (MPNSA) during the term of this MOU. MPNSA was granted a three (3%) percent increase effective July 24, 2007, resulting in the MCMA salary adjustment. This provision for a maximum increase equal to MCEA or MPNSA shall expire on June 23, 2008.

A. For purposes of this MOU, base salary range shall mean the salary range assigned to a specific classification as provided in **Exhibit 1**. Base salary rate shall mean the hourly rate of pay established pursuant to the step placement within the base salary range as provided in this MOU.

B. Paid time shall be based upon the base salary rate with the computation rounded to the nearest cent.

C. Each salary range shall consist of nine (9) steps, 1 through 9, at 2.5% increments. Progression through the steps shall be based upon both length of service and job performance.

1. Step 1 will normally be paid upon initial employment. The initial salary may be set at a higher step only upon approval of the Department Director. In cases of exceptional performance, employees hired at higher than Step 1 may be considered for their first step increase after thirteen (13) pay periods.

2. Employees hired at Step 1, shall be considered for a step increase upon completion of thirteen (13) pay periods. An overall "Meets Expectations" rating will result in a one-step (2.5%) increase. An overall rating of "Exceeds Expectations" will result in a two-step (5%) increase. Consideration for subsequent step increases shall be at intervals of twenty-six (26) pay periods until Step 9 is attained.

3. Employees hired at other than Step 1 shall normally be considered for a step increase upon completion of twenty-six (26) pay periods, and consideration for subsequent step increases shall be at intervals of twenty-six (26) pay periods until Step 9 is attained.

4. Accelerated step increases within the established salary range may be granted in addition to those above, upon approval of the City Manager.

5. When a step increase is denied, there shall be no reconsideration until the employee's next scheduled performance evaluation in twenty-six (26) pay periods. There is no right of appeal to the withholding of a step increase, but the reasons for withholding the increase shall be given in writing to the employee. "Withholding of a step increase" is defined as denial of the minimum 2.5% step increase. The employee may contest the withholding of the step increase, in writing, beginning with the rater's supervisor and ending with the Department Director. The decision of the Department Director shall be final.

6. Due to inferior work, lack of application, indifferent attitude or other legitimate reasons, a non-exempt employee's step may be reduced to a lower step. For exempt employees, performance deficiencies may be cause for any FLSA-compliant action, in accordance with applicable law. There is no right of appeal under ARTICLE 43 (DISCIPLINARY APPEALS) due to the lowering of steps, but the reasons for reduction shall be given in writing to the employee. An employee may contest the lowering of a step through the process in ARTICLE 41 (GRIEVANCE PROCEDURE).

7. All other salary administration policies shall be as contained in the Personnel Rules and Personnel Administrative Orders.

ARTICLE 6. PERFORMANCE EVALUATION

A. The CITY and MCMA agree to use the "Performance Management Guidelines" as the recognized evaluation process. There shall be periodic performance evaluations of all employees, which shall be discussed with the employee and made a matter of record. If the evaluation shows that an employee's work does not meet expectations, the supervisor shall take appropriate steps to encourage improvement and may set a definite period of time in which improvement is expected. For non-exempt employees, failure to achieve satisfactory improvement may be cause for demotion, reduction in pay, suspension or dismissal. For Exempt employees, failure to achieve satisfactory improvement may be cause for any FLSA-compliant action, in accordance with applicable law.

B. The CITY's "Pay for Performance" program shall be amended as follows:

1. Provide that progression through all nine (9) steps of the salary range be based on a "Meets Expectations" overall rating resulting in a one (1) step (2.5%) increase and an "Exceeds Expectations" overall rating resulting in a two (2) step (5%) increase.

2. Employees at, or above, Step 7 who fail to maintain an overall rating of "Exceeds" will not be Y-rated.

C. The parties acknowledge that a performance-based compensation plan, one in which compensation and recognition are tied to performance, is very desirable and remains a stated goal of the CITY organization. The CITY and MCMA agree to jointly explore compensation models in support of this goal.

ARTICLE 7. PROBATION

A. All original and promotional appointments shall be tentative and subject to a probationary period of one year from the date of appointment to the position. The purpose of the probationary period is to train, observe and evaluate the employee on conduct, performance, attitude, adaptability and job knowledge.

1. Initial Probation: It is understood that the probationary period will normally last for one year from the date of appointment, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1680 hours. In the event that an employee works less than 1680 hours in the first twelve months of employment, then the employee's probation shall be extended until he/she has worked 1680 hours.

2. Promotional Probation: It is understood that the probationary period, upon promotion, will normally last for one year from the date of promotion, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1560 hours. In the event that an employee works less than 1560 hours during the twelve months following his/her promotion, then the employee's probation shall be extended until he/she has worked 1560 hours.

B. During the probationary period an employee may be released at any time without right of appeal. Written notice of release shall be furnished to the probationer.

C. An employee released during or at the conclusion of probation following a promotion, shall be reinstated to the position previously held, at the former salary step, except if the reasons for release are cause for dismissal.

ARTICLE 8. PAY PERIOD DEFINITION

A pay period is defined as the fourteen (14) calendar day period from 12:01 a.m. Tuesday to 12:00 a.m. (midnight) Monday two weeks thereafter. The first full pay period under this MOU shall commence at 12:01 a.m., Tuesday, **July 24, 2007**.

ARTICLE 9. WORKWEEK DEFINITION

The workweek is 12:01 a.m. Tuesday to 12:00 a.m. (midnight) the following Monday. Department Directors and individual employees may agree to modify the workweek in order to facilitate flexible work hours.

ARTICLE 10. STANDARD TOUR OF DUTY

The standard tour of duty represents the time that an employee is regularly scheduled to work. A regularly scheduled tour of duty, which commences before midnight and ends the following day shall be reported for payroll purposes as time worked for the day in which the tour of duty began.

ARTICLE 11. APPROVED WORK SCHEDULES

A. The CITY has the right to implement work schedules, other than the traditional 5/2 schedule, to meet the needs of the organization and the individual departments. Prior to implementation of an alternate schedule, the CITY shall meet and confer with MCMA on the impacts of the alternate schedule. Work schedules currently authorized are described below.

B. **9/80 and 4/10 Work Schedule**

The 9/80 and 4/10 work schedules may be approved for classifications or positions that are overtime-eligible. These schedules may also be approved for 1) exempt first-line supervisory classifications when the CITY desires that the supervisor work the same schedule as his/her subordinates, and for 2) exempt professional or para-professional classifications where such work schedules will not interfere with the employee's ability to coordinate with other staff.

C. **4/11 and Modified 4/10 Schedules**

These schedules may only be approved for exempt first-line supervisory classifications in the Police Department when the CITY desires that the supervisor work the same schedule as his/her subordinates.

D. Exempt employees working alternate schedules will be expected to attend CITY meetings or attend to CITY business on their days off, should the need arise.

E. Positions or classifications not meeting the criteria designated in paragraphs B and C, above, are not eligible for these alternate work schedules, except that the City Manager, or designee, may authorize exceptions.

F. A Department Director may require implementation of these schedules for one, or more, eligible employees, based on the needs of the CITY. An employee in these eligible classifications or positions may also request one of these work schedules. Any request for one of these alternate work schedule must be justified and approved by the Department Director.

All approved requests will be forwarded to the Personnel Department for processing. The 9/80 work schedule shall not be effective until Personnel has officially changed the employee's workweek, as outlined in **Exhibit 3**, attached.

A Department Director may discontinue an alternate work schedule for one, or more, employees after written notification to each employee and after the Personnel Department has processed this change, including officially changing the employee's workweek, if needed.

ARTICLE 12. LEAVE USAGE ACCRUALS

All leave accrual, including the accrual of overtime, shall be recorded on a minute-for-minute basis. All leave usage, including the use of overtime, shall be recorded and used on a minute-for-minute basis.

ARTICLE 13. REST PERIODS FOR NON-EXEMPT EMPLOYEES

Rest periods may be granted daily in accordance with the requirements of the department. Rest periods shall not exceed 15 minutes each and shall be considered as time worked.

ARTICLE 14. OVERTIME FOR NON-EXEMPT EMPLOYEES

A. Policy. It is the policy of the CITY to discourage overtime except when necessitated by abnormal or unanticipated workload situations. It is the responsibility of Department Directors to arrange for the accomplishment of workload under their jurisdiction within the normal tour of duty of employees. Each department shall keep complete and accurate records of all overtime earned in every pay period. The CITY has the right to require each employee to work overtime as necessary. To the extent possible and in the sole discretion of the Department Director, overtime will be distributed equitably among qualified employees within the department.

B. Definition. Overtime is defined as hours actually worked in excess of forty (40) hours in a workweek. Paid leave shall be considered as time actually worked for purposes of computing overtime. Overtime shall not affect leave accruals.

C. Overtime Compensation. Any employee authorized by the Department Director or authorized representative to work overtime shall be compensated at premium rates, i.e. one and one-half (1½) times the employee's regular hourly rate of pay. Upon an employee's request, overtime may be compensated as compensatory time off (CTO). CTO shall be credited at time and one-half. Overtime and CTO shall be recorded and used on a minute-for-minute basis.

Each employee will be paid, as part of the last paycheck received in September, December, March and June for all compensatory time over one hundred and sixty (160) hours. For employees hired on, or after, October 4, 2005, quarterly payment shall be for all hours over one hundred (100).

Employees may request payment of compensatory time to be included as part of a regular paycheck so long as the request is for at least twenty (20) hours and sufficient notice, as determined by the Finance Director, is provided. Compensating time off may be taken at the request of the employee and with the approval of the Department Director or designee, in accordance with FLSA regulations. Compensating time off will be taken in straight time hours.

Prior to the promotion, reclassification or change to FLSA exempt status of an employee, all compensating time off shall be taken or paid at the employee's then current regular rate of pay.

D. Wash Time. A Department Director, with the concurrence of the affected employee, may arrange for that employee to take such time off at straight time as is necessary to insure that the employee's actual time worked does not exceed forty (40) hours within a given workweek.

E. Meal Allowance. An employee required to work for four (4) or more continuous hours beyond the scheduled shift on emergency work, or for four (4) or more consecutive hours of work when on Call Duty or Call Back, or called out after the end of shift for four (4) or more continuous hours, shall be compensated ten dollars ($10.00) for a meal allowance. Only one ten-dollar ($10) payment shall be made per shift, unless the employee works four (4) or more consecutive hours, is released from duty, and must return for four (4) or more hours in the same shift.

ARTICLE 15. CALL-DUTY PAY

A. Non-exempt employees, (as defined in D below) who are released from active duty but are required by the department to leave notice where they can be reached and be available to return to active duty when required by the department, shall be assigned to call-duty. While on call-duty (sometimes referred to as on-call), an employee shall be free to use the time for his or her own purposes.

B. Call-duty requires that employees so assigned shall: (1) leave a telephone number where they can be reached or wear a communicating device; and (2) be able to respond to duty within a reasonable period of time, not to exceed thirty (30) minutes. Call-duty time shall not count as hours worked.

C. Assigned personnel shall receive call-duty pay in the amount of two (2) hours pay on their regularly scheduled workday and four (4) hours pay on the employee's regularly scheduled days off and fixed CITY holidays.

D. System Technicians are the only positions authorized to receive call-duty pay. During the term of this MOU, if a Department Director, with the concurrence of the Personnel Director, assigns any other non-exempt position(s) to call-duty, assigned personnel shall be subject to the restrictions and entitled to the compensation provided by this Article.

ARTICLE 16. CALL-BACK PAY FOR NON-EXEMPT EMPLOYEES

A. When a non-exempt employee (as defined in D below) returns to active duty at the request of the Department Director after the employee has been released from active duty, the employee shall be entitled to call-back compensation.

B. The following incidents are not considered call-back and are compensated on a time and one-half basis:

1. Planned overtime for which the employee has received a minimum of twenty-four (24) hours advance notice;

2. Overtime associated with assigned Call-Duty as described in ARTICLE 15. CALL-DUTY PAY;

3. Overtime which occurs as an extension of an employee's regular workday;

4. When an employee begins work at the request of the Department within ninety (90) minutes prior to the scheduled start of their regular work shift.

C. When on call-back, an employee receives the following compensation:

1. Three (3) hours of straight time per call-back occurrence;

2. In addition to the three (3) hours of straight time, an employee shall be paid one and one-half (1½) time for actual time worked in excess of eighty (80) minutes.

D. Systems Technicians are the only positions authorized to receive call-back pay. During the term of this MOU, if a Department Director, with the concurrence of the Personnel Director, designates additional position(s) as subject to call-back, assigned personnel shall be entitled to the compensation provided by this Article.

ARTICLE 17. ACTING AND OUT-OF-CLASS PAY

A. Acting Pay:
Employees directed to work continuously in a vacant higher level regular position shall, subject to the other provisions of this paragraph, receive a salary increase to the higher level for the time actually worked in excess of twenty (20) work days. Such increase shall be determined as if the assignment had been a promotion retroactive to the first day of such assignment. For purposes of this Article, a vacant position is defined as an authorized regular position that is unoccupied due to attrition or due to the incumbent being on an extended leave of absence. Requests for higher compensation must be approved by the Personnel Director. Such requests may only be approved upon certification by the Department Director that the assigned employee meets the minimum training and experience guidelines and is assigned and held responsible to perform fully the full scope of duties normally associated with the higher level position. In the event that an eligible list exists for the vacant position, the list will be consulted before making the acting pay assignment. Assignment rotations among qualified staff are encouraged unless such rotations would considerably disrupt the operations of the department(s).

B. Out-of-Class Pay:
At the request of the Department Director, the Personnel Director shall authorize additional compensation for an employee, if it is determined that an employee has been directed to work continuously in a higher classification or at a higher level of responsibility for the time actually worked in excess of fifteen (15) work days. It is the responsibility of the Personnel Director to approve or disapprove such requests. In the event of a dispute, the decision is subject to review by the City Manager and is not subject to the Grievance Procedure.

C. Duration of Assignment:
Initially, an Acting Assignment or an Out-of-Class Assignment shall be limited to a term of twelve (12) consecutive months for any one employee. Requests to extend the assignment beyond twelve (12) months will require review and approval by the Department Director and the Personnel Director. If approved, the extension of the assignment shall be for a maximum of six (6) additional months. One additional extension of six (6) months, beyond the first six (6) month extension, may be authorized with the approval of the City Manager or Deputy City Manager.

ARTICLE 18. MANAGEMENT/CONFIDENTIAL LEAVE

A. Employees in regular positions shall be granted Management or Confidential Leave with pay each year, to be taken at the discretion of the employee and upon approval by the Department Director. Said leave shall be advanced with the first paycheck to be paid each calendar year and must be taken off prior to the next calendar year's advance. Partial cash out of unused leave is available in December of each year, to the maximums listed, below. Leave not used before the end of the calendar year period for which it is advanced will be forfeited.

	Annual Leave	Maximum Cashout
Management Employees/Exempt	80 hours	40 hours
Management Employees/Overtime Eligible	40 hours	20 hours
Confidential Employees	20 hours	18 hours

B. An employee hired after Management/Confidential Leave has been advanced for the calendar year shall be eligible for a pro-rated portion of Leave.

C. In the event of separation from CITY employment of any employee who has taken Management/Confidential Leave prior to the time all of said leave is earned, the employee shall be required to make full restitution to the CITY of that portion of leave taken but remaining unearned on the date of separation from employment. Employees separating from CITY service will not be paid for unearned leave time but will be paid for earned leave time.

ARTICLE 19. VACATION

A. The following vacation accrual rates shall be established for regular employees:

Annual Vacation Accrual Rate	Years of Service
80 hours	1
88 hours	2
96 hours	3
104 hours	4
112 hours	5
120 hours	6
128 hours	7
136 hours	8
144 hours	9
152 hours	10
160 hours	11
164 hours	12
168 hours	13
172 hours	14
176 hours	15
180 hours	16
184 hours	17
188 hours	18
192 hours	19
196 hours	20
200 hours	21 or more

B. Employees may not accrue vacation time in excess of twice their annual vacation accrual rate, provided that no employee shall lose vacation time to meet the needs of the service. Requests for vacation accrual in excess of the cap will require City Manager approval.

C. All vacation leave must be approved by the Department Director or designated representative.

D. Employees in regular positions shall accrue, on a pro-rata basis, vacation leave for completed pay periods. Such vacation leave shall be available for use on the first day following the pay period in which it is earned. Employees in regular positions budgeted less than eighty (80) hours per pay period or job shared positions shall receive vacation leave accumulation on a pro-rata basis.

E. Negative Vacation. Effective January 24, 2006, employees shall not be permitted to take vacation in advance of accrual, except in extenuating circumstances, as determined by the City Manager or designee. Use of vacation in advance of accrual shall not be authorized if the employee has other applicable leave time available. Any request for use of vacation in advance of accrual shall include a method and timeline for offsetting the negative vacation balance, as well as authorization from the employee for the City to recover any negative balance still owed to the City upon the employee's separation from service. Such recovery shall be first from the employee's final paycheck and then by either personal payment from employee or by a withdrawal from the employee's deferred compensation account.

F. Vacation leave shall be compensated at the employee's regular hourly rate of pay.

G. With the approval of the City Manager, an employee about to retire, or who is to be laid off, may utilize their accrual prior to the effective date of any such retirement or lay-off. In-lieu of such vacation the employee may elect a lump sum payment for accrued vacation time upon separation from the CITY. All other employees shall be paid at their regular rate of pay for all hours accrued at time of separation from the CITY.

ARTICLE 20. HOLIDAYS

A. Fixed Holidays. All employees in regular positions, except those employees assigned to a 4/11 or modified 4/10 schedule, shall be entitled to the following fixed holidays:

New Year's Day	Martin Luther King, Jr. Day
Presidents' Day	Memorial Day
Independence Day	Labor Day
Veterans' Day	Thanksgiving Day
Day after Thanksgiving Day	Christmas Day

The 4/11 and modified 4/10 schedules do not recognize fixed holidays. All holiday time for employees on these two schedules shall be as defined in paragraph N, below.

B. Floating Holiday. Employees in regular positions shall be entitled to floating holiday time of eight (8) hours on a 5/2 or nine (9) hours on a 9/80 schedule, and ten (10) hours on a 4/10 schedule, provided that the employee is on the payroll during the entire pay period in which such floating holiday time is to accrue. "Entire pay period" shall mean that an employee must have been hired prior to or at the start of the pay period and not have separated prior to the end of the pay period and was paid for at least one-half (1/2) of the

scheduled hours. Floating holiday time shall be accrued during the pay period in which January 1 falls. Floating holiday time for employees on a 4/11 or modified 4/10 schedule is included in their eighty-eight (88) hours of holiday credit defined in paragraph N, below.

C. Floating holidays accrued shall be available for use the first day following the pay period in which they are accrued, and shall be scheduled with the approval of the Department Director or designee.

D. Employees in regular positions budgeted less than eighty (80) hours per period or job-shared positions shall receive fixed and floating holiday accruals on a pro-rata basis.

E. If a fixed holiday falls on an employee's regularly scheduled workday, the employee shall be entitled to a total of eight (8), nine (9) hours or ten (10) hours (a full work shift) of holiday time off depending on their current work schedule.

F. If a fixed holiday falls on a Saturday, the preceding Friday will be observed as the fixed holiday. If a fixed holiday falls on a Sunday, the succeeding Monday will be observed as the fixed holiday.

G. If a fixed holiday falls on an employee's regularly scheduled day off, the full time employee shall be entitled to a total of eight (8) hours of holiday compensatory time.

H. Non-exempt employees working on fixed holidays shall be compensated at time and one-half (1-1/2) for time actually worked, irrespective of hours actually worked in this workweek. In no event shall such an employee be compensated for working a fixed holiday in excess of one and one-half (1-1/2) times the employee's regular hourly rate of pay plus hour-for-hour holiday compensatory time, except as provided in ARTICLE 15 (CALL BACK).

I. Whenever an employee is directed to work on a fixed holiday, which falls on the employee's regularly scheduled work day, the employee shall accrue, on an hour-for-hour basis, up to a total of regularly scheduled hours (8 or 9 or 10 respectively) of holiday compensatory time.

J. Whenever an employee is directed to work on a fixed holiday which falls on a regular day off, the employee shall accrue on an hour-for-hour basis up to a total of eight (8) hours of holiday compensatory time irrespective of employee's normal work schedule.

K. Employees on leave without pay the last scheduled workday before and the first scheduled workday after a fixed holiday shall not receive holiday pay.

L. Holiday time may be accrued up to a maximum of forty (40) hours. When the employee reaches the forty (40) hour maximum, additional holiday time worked shall be compensated in cash at straight time rates. Upon termination or retirement, employees shall be compensated for any unused accrued holiday time at the then current regular hourly rate of pay.

M. Employees may request cash-out of up to forty (40) hours of their grandfathered holiday time annually, during the pay period in which November 1, falls. This cash-out is at the employee's current regular hourly rate of pay.

N. Holidays for 4/11 and Modified 4/10 Schedules: The first payperiod of January of each year, employees assigned to the 4/11 or modified 4/10 schedule shall be credited with eighty-eight (88) hours of accrued holiday time. Holiday leave shall be reduced by eighty-eight (88) as required by the modified 4/10 schedule, for a net of zero (0) hours, or reduced by twenty (20) hours as required by the 4/11 schedule, for a net of sixty-eight (68) hours. See Exhibit 3. Employees assigned to the 4/11 or modified 4/10 schedule are not entitled to any additional compensation when the holiday falls on their regular workday. For employees on a 4/11 schedule, the remaining sixty-eight (68) hours of holiday time in the employee's regular holiday account shall be taken as time off, or shall be forfeited at the end of each calendar year. (The end of the calendar year is defined as the pay period in which January 1 falls).

If an employee enters into or leaves a 4/11 or modified 4/10 schedule, the employee's holiday hours shall be adjusted to reflect the schedule change.

ARTICLE 21. SICK LEAVE

A. Definition. Sick leave with pay is an insurance program provided by the CITY for employees in regular positions to be granted in circumstances of adversity to promote the health of the individual employee. Sick leave is defined to mean the authorized absence from duty of an employee because of physical or mental illness, injury, pregnancy, confirmed exposure to a serious contagious disease or for a medical, optical, or dental appointment. Sick leave shall not be used for any injury arising out of or incurred in connection with outside employment.

In compliance with California law, a maximum of one-half of an employee's annual calendar year sick leave accrual (forty-eight (48) hours) may be used to care for or obtain care for an employee's child, including stepchildren and foster children, parent, spouse, registered domestic partner or child of a registered domestic partner who is ill.

A maximum of twenty-four (24) hours accrued sick leave may be used to care for or obtain care for members of the employee's immediate family who require the attention of the employee. For purposes of this provision, immediate family includes a sister, brother, mother-in-law, father-in-law, grandparent, and foster parent of the employee who is ill.

B. Accumulation. Employees shall accrue sick leave for each payroll period completed, prorated on the basis of ninety-six (96) hours per year at the rate of three hours and forty-two minutes (3:42) per pay period. Sick leave shall be available for use on the first day following the pay period in which it is earned, provided the employee has completed four hundred eighty hours (480) of service from the employee's hire date. Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions shall receive sick leave accumulation on a pro-rata basis. Sick leave shall be accumulative up to a maximum of two thousand two hundred (2,200) hours. Sick leave shall not accrue when an employee is absent for more than forty (40) hours in any pay

period while on any leave other than holiday, vacation, management/confidential, CTO, bereavement, jury duty, paid administrative or temporary military leave.

C. Compensation. Sick leave shall be compensated at the employee's regular hourly rate of pay. When an employee is transferred from one department to another, the transfer shall have no effect on the employee's sick leave accruals.

D. Administration.

1. Validation. It shall be the responsibility and duty of each Department Director to validate each request for sick leave and to allow sick leave with pay where the application is determined to be proper and fitting.

2. Notice of Sickness. In twenty-four (24) hour departments, the Department Director or designee must be notified at least two (2) hours prior to the start of the employee's scheduled tour of duty of a sickness on the first day of absence. In other departments, the Department Director or designee must be notified not later than the start of the employee's scheduled tour of duty of a sickness on the first day of absence. It is the responsibility of the employee to keep the Department Director or designee informed as to continued absence beyond the first day for reasons due to sickness or occupational disability. Failure to make such notification may result in denial of sick leave with pay.

3. Review. The Personnel Director may review and determine the justification of any request for sick leave with pay and may, in the interest of the CITY, require a medical verification by a doctor to support a claim for sick leave pay.

4. Proof. A doctor's certificate or other adequate proof shall be provided by the employee in all cases of absence due to illness prospectively when requested by the Department Director.

5. Improper Use. Evidence substantiating the use of sick leave for willful injury, gross negligence, intemperance, trivial indisposition, instances of misrepresentation, or violation of the rules defined herein may result in denial of sick leave with pay or disciplinary action.

E. Coordination of Benefits. Employees shall be entitled to coordinate fully their sick leave benefits with their Workers' Compensation benefits.

F. Sick Leave Cash-out. Employees who leave CITY employment in good standing after five (5) years of continuous service (other than retirement), shall be paid at time of termination for twenty-five (25%) percent of the first twenty-two hundred (2,200) hours at the employee's then current regular rate of pay.

G. Retirement.

1. Employees who retire after five (5) years of service in good standing may, on a one-time basis, exercise the option to have ninety percent (90%) of their unused

sick leave, up to twenty-two hundred (2,200) hours, applied by the CITY upon retirement to premiums for health, dental and vision insurance plans covered by the CITY. Said insurance shall be provided in an amount up to that contributed to active employees, as needed to cover the cost of retiree health, dental and vision premiums at the rate of one (1) month of premium contributions for each eight (8) hours of sick leave, except as noted in paragraph (4) below.

2. The CITY's contribution to retired employees shall be defined as that amount contributed to active employees on the median priced health plan, excluding union-sponsored plans or PPO's. In the event of death of the retired employee, the employee's spouse, registered domestic partner or dependents shall remain eligible to receive this benefit.

3. If, after the ninety percent (90%) conversion, a retiring employee has less than twelve hundred forty-five (1,245) hours, the employee may elect to convert some, or all, of the employee's accrued vacation leave to the sick leave account, provided that the total number of hours of sick leave and vacation does not exceed twelve hundred forty-five (1,245) hours. Any such vacation hours shall be converted at ninety (90%) percent, on the same basis as sick leave.

4. At the time a retiree initially moves or during any open enrollment period or IRS-approved life change situation, a retiree who lives out of the HMO service area, or out of state, may elect to use multiple monthly increments (up to a maximum of three (3) months) of their accumulated sick leave conversion benefits to offset higher health insurance premiums for plans sponsored by the CITY. During any subsequent open enrollment, the retiree may reduce the number of multiple increments. Retirees electing this option will be required to sign an acknowledgement form that indicates they understand that they will be using their benefit proportionately.

ARTICLE 22. CATASTROPHIC LEAVE

A. Employees in regular positions shall be eligible to participate in the strictly voluntary catastrophic leave program. To be eligible, an employee must provide written medical verification of a long-term illness or injury, or have a member of the employee's immediate family, including a domestic partner, with a long term illness or injury which results in the employee being requested to take time off from work to care for that family member. The employee must have exhausted all accrued leave and CTO, or soon will have exhausted all such leave, resulting in the employee being in a no-pay status. Employees who are receiving long-term disability benefits are not eligible for catastrophic leave. Catastrophic leave shall be coordinated with Family Leave with respect to CITY payment of insurance contributions. See ARTICLE 31. F. (HEALTH, DENTAL, VISION INSURANCE) for coordination of Catastrophic Leave with Workers' Compensation.

B. When a Department Director has determined that an employee would benefit from the establishment of a leave bank and has approved an employee's request for catastrophic leave bank, the Department Director will notify the Personnel Department requesting the establishment of a leave bank in the employee's name. The Department Director will be

responsible for notifying CITY employees of the need for donations. The Department Director will take necessary actions to help ensure that individual employee decisions to donate or not donate to a leave bank are kept confidential and that employees are not pressured to participate. ALL DONATIONS SHALL REMAIN CONFIDENTIAL.

C. The maximum time that may be initially donated into an employee's leave bank account is 1,040 hours. To be eligible to receive more than the original 1,040-hour limit, there must be a favorable prognosis for recovery and a predictable date of return to work.

D. An employee may donate vacation, holiday, management/confidential and up to forty (40) hours of sick leave in increments of four (4) hours to a specific employee for which a leave bank has been created. Employees may donate leave only if their own total accrued leave balance(s) remains in excess of 168 hours. Employees must advise Personnel Department of the maximum hours they wish to donate. Donated hours shall be credited to the leave bank of the affected employee as sick leave upon an "as needed basis." Once the authorized hours are credited to the leave bank of the affected employee, the donation of leave hours is irreversible. When employees are utilizing leave bank hours, they will not accrue any leave time.

E. Employees wishing to donate time shall complete and submit the required form to the Personnel Department. After review, the form will be forwarded to the Finance Department for payroll action and adjustment to donor and recipient's paid leave balance.

F. In no event shall donated time have the effect of altering the employment rights of the CITY or the recipient employee, nor shall it extend or alter the limitations otherwise applicable to leaves of absence or sick leave. The CITY reserves the right to modify or terminate an established leave bank for participating employees as it deems necessary.

ARTICLE 23. BEREAVEMENT LEAVE

A. Employees in regular positions shall be entitled to three (3) days of paid leave regardless of work schedule which may be used per occurrence for bereavement due to the death of persons in the immediate family defined as a spouse, son, daughter, mother, father, sister, brother, mother-in-law, father-in-law, grandparent, grandchild, stepson, stepdaughter, stepparent or former guardian of the employee, person over which the employee has legal guardianship, child of a registered domestic partner, foster child, and foster parent of the employee, registered domestic partner or any relative living with the employee.

B. In addition, a maximum of two (2) days of accrued sick leave regardless of work schedule may be used per occurrence for bereavement due to the death of persons in the immediate family, or any relative living with the employee. Under extraordinary circumstances, additional time may be granted by the City Manager. In the case of disagreement between an employee and the Department Director over use of bereavement leave or additional days under sick leave, the employee may request an immediate review by the City Manager.

ARTICLE 24. LEAVES OF ABSENCE

A. Authorized Leave of Absence. An authorized leave of absence without pay with right to return to classification for a period of not more than one (1) year may be granted to an employee who is:

1. Medically incapacitated (including pregnancy) to perform the duties of the position; Prior to such approval, an employee must provide written medical verification of a long-term disability, illness or injury to the Department Director or designee.

   The above is notwithstanding:

   Provisions of the California Government Code, (Section 21153) which states, in pertinent part: "...an employer may not separate a member because of disability a member is otherwise eligible to retire for disability but shall apply for disability retirement of any member believed to be disabled, unless the member waives the right to retire for disability and elects to withdraw contributions or to permit contributions to remain with rights to service retirement..."

   CalPERS regulations, which provide that as soon as it is believed the member is unable to perform the job because of an illness or injury which is expected to be permanent or last longer than six months, the member or someone on the member's behalf, should submit an application for disability retirement. The medical condition does not have to be 'permanent and stationary.'

2. Desires to engage in a relevant course of study that will enhance the employee's value to the CITY;

3. For any reason considered appropriate by the Department Director and the Personnel Director.

A request for such leave must be in writing. Leave requests under Section (1) require the approval of the Department Director. Leave requests under Section (2) and (3) that are up to three months in duration require the approval of the Department Director and the Personnel Director. Leave requests under Section (2) and (3) that are over three months in duration require the approval of the Department Director, the Personnel Director and the City Manager. An employee does not have to exhaust accumulated paid leave prior to requesting a leave of absence without pay.

Except as otherwise provided in ARTICLE 31 (HEALTH, DENTAL & VISION INSURANCE), when an employee is on a leave of absence without pay with right to return to their classification, the employee shall accrue no employee benefits and shall pay the full premium of their health and welfare program on a prorated basis, if coverage is continued by the employee. If health and welfare coverage is dropped during a leave of absence, the employee may be subject to restrictions imposed by the insurance carrier upon return. After a leave of absence with or without right to return of

six (6) months or more, a qualifying medical examination, paid by the CITY, may be necessary prior to reinstatement.

B. Military Leave. Any employee who is granted a military leave of absence to serve in the Armed Forces of the United States shall have his/her seniority as far as salary steps are concerned continued as if the person had remained on the CITY payroll. The person shall be reinstated from the military leave of absence at the same step in the same salary range that he/she would have been eligible to receive had he/she not been granted the military leave of absence. Military leaves of absence will be governed by the provisions of the Military and Veterans Code of the State of California, Section 389 et seq and the Uniformed Services Employment & Reemployment Rights Act of 1994 (38 USC), Sections 4301 et seq.

C. Jury Duty Leave. Any employee who is summoned for attendance to any court for jury duty on a regularly scheduled work day, shall be deemed to be on duty and there shall be no loss of salary but any jury fees received by him/her shall be paid into the CITY treasury. (An individual who agrees to serve on a civil grand jury, is generally not summoned to do so.)

Regular paid time, however, shall not be granted for time spent in court on jury duty on the employee's regular day off or in court on personal cases in which the employee is an interested party and the case is not connected with their CITY duties.

Any non-exempt employee who is served with a subpoena to appear as a witness in a civil case in which the CITY is a party or as a witness for the CITY in a criminal matter shall be deemed to be on duty, even if the appearance falls on a non-duty day. Any witness fees received by the employee while on a paid status shall be paid into the CITY treasury.

D. Compulsory Leave. If in the opinion of the Department Director, an employee is unable to perform the duties of his/her position for physical or psychological reasons, the Department Director shall refer that employee to the Risk Manager. The Risk Manager shall have the authority to require the employee to be examined by a physician or other competent authority at CITY expense to determine the employee's fitness for duty. The employee may go to a physician or other competent authority of his/her own choosing other than his/her treating physician or specialist or someone in practice with the treating physician, (subject to the approval of the Risk Manager based upon a determination of the practitioner's practice or specialty) at the employee's expense. The employee shall have four (4) calendar days to arrange for said examination and to provide the Risk Manager written documentation from the employee's practitioner stating the date and time of the appointment.

If the examination report finds the employee to be in an unfit condition to perform the duties required of the position, the Department Director shall have the right to compel the employee to take sufficient leave of absence. If found unfit, the CITY may require the practitioner to provide the CITY with an anticipated date (or dates) of re-evaluation(s). The employee must provide the CITY with a signed waiver providing the Risk Manager (and the CITY's physician if a personal physician is chosen)

authorization to receive certification from the physician as to the employee's fitness for duty. The re-evaluation will be performed at CITY expense.

If the examination report finds the employee to be fit for duty, the employee shall return to work without loss of pay or benefits.

A temporarily disabled employee may be offered modified duty in his/her department or another. Modified duty shall be predicated upon the following:

1. There is work to be performed.

2. The work can be performed in an efficient and effective manner.

3. The work can be performed within the restrictions placed upon the employee.

E. Paid Administrative Leave. The Department Director may order an employee off work without reduction in compensation.

F. Unpaid Administrative Leave. If an employee tests positive for a controlled substance (absent a valid prescription) or for alcohol subsequent to a Reasonable Suspicion Drug or Alcohol test, the Department Director may require the employee to use accrued leave time or unpaid Administrative Leave until such time as the employee tests negative. The "return to work" drug or alcohol test(s) will be performed at the employee's expense.

G. Family Leave. The CITY is in compliance with both State and Federal Laws providing for employee leaves for family and medical care as regulated by the State Fair Employment and Housing Commission and the Federal Department of Labor.

H. Pregnancy Disability Leave. A pregnant employee shall furnish the Department Director, no later than the fourth month of pregnancy, a statement of the attending physician that indicates the estimated time of delivery. A pregnant employee is entitled to take a pregnancy disability leave for the portion of the pregnancy and the time following delivery during which the doctor determines she is disabled (not to exceed four months). Prior to that time, the employee shall contact the Personnel Department to complete the necessary documents.

Such an employee may elect to take accrued leave time or leave without pay during the period of her disability. Reinstatement subsequent to pregnancy disability leave of absence shall be to the same classification from which leave was taken.

I. Unauthorized Leave of Absence. When an employee is absent without prior authorization, the time absent shall be recorded as Leave Without Pay. An employee on Leave Without Pay may lose related benefits.

ARTICLE 25. JOB SHARING

A. The CITY will make reasonable accommodation for an employee in a regular position who desires to share his/her job with another qualified employee or eligible person provided that the Department Director has made a determination that such a change will be beneficial to the organization. Jobs may be shared on an hourly or daily basis provided that the combined total scheduled hours do not exceed eighty (80) hours per pay period. An employee who works less than forty (40) hours per pay period shall be not eligible to receive any benefits for which the CITY pays an insurance premium or membership in the retirement system. Should both employees be scheduled for forty (40) hours each pay period, both employees shall assume responsibility for the payment of one-half (1/2) of the CITY's contribution towards insurance premiums, as well as their own, if any; provided, however, that one (1) employee may elect to waive coverage under the insurance program allowing the other employee to receive the full CITY contribution. All other benefits for job sharing employees shall be as provided in the appropriate Article on a pro-rated basis based upon a total eighty (80) hour pay period.

B. Each employee shall be notified in writing by the Department Director at the time of appointment and such notification will clearly define the benefits to which each employee is entitled. Work schedules for job sharers shall be approved in advance by the Department Director with a minimum of one-week notice for scheduled changes. In the event that one employee terminates, cancels participation or is on leave of absence, the remaining employee shall assume the position on a full-time basis until a replacement is available.

C. For non-exempt employees in a job share assignment, overtime shall only accrue for hours in excess of forty (40) hours in a work week.

ARTICLE 26. LICENSE, CERTIFICATES, REGISTRATION

A. Required Licenses, Certificates and Registration

1. Effective April 8, 2003, whenever an employee is required to obtain a certificate, license or registration in order to carry out the duties assigned, except a California Class C Driver's License, the CITY will pay the fee for the actual certificate, license or registration (and exam fee, if any) and, for non-exempt employees, the time required to obtain or renew it shall be considered as regular duty time.

2. The CITY shall allow non-exempt employees to attend training or continuing education courses necessary to maintain a certificate, required by the employee's current classification, and the CITY shall bear the cost of course material and tuition or registration fees.

B. Voluntary Certifications [This section is subject to change with the implementation of the wall to wall classification study.]

1. Effective April 8, 2003, whenever an employee voluntarily obtains one of the following certifications, the initial fee for the actual certificate (and exam fee, if any) and the time required to obtain it, shall be at the employee's expense. Once the employee is certified and is receiving certification pay, the CITY will pay the fee for the actual certificate and exam fee, if any, (with a maximum of up to two tests per certificate or per renewal) and, for non-exempt employees, the time required to renew it.

2. Effective July 1, 2003, and as amended October 4, 2005, employees in the following classifications, divisions and assignments shall receive an additional two and one-half percent (2 ½%) for possessing a Grade III certificate, five percent (5%) for possessing a Grade IV certificate, and seven and one-half percent (7 ½%) for possessing a Grade V certificate as follows:

Division	Certificate	Grade	Eligible Classes
Water Operations	Water Distribution Operator	III, IV, V	O&M Supervisor ([1]) Administrative Analyst I/II
	Water Treatment Operator	III, IV, V	
Wastewater Collections	Collection System Maintenance Technologist	III, IV	O&M Supervisor
	Mechanical Technologist	III, IV	
Water Quality Control	Collection System Maintenance Technologist	III, IV	WQC Maintenance Supervisor
	Mechanical Technologist	IV	
Water Quality Control	Environmental Compliance Inspector	III, IV	Industrial Waste Supervisor
Water Quality Control	Laboratory Analyst-CWEA	IV	Environmental Laboratory Supervisor
All Divisions, Citywide	Pest Control Advisor	N/A	Maximum of two (2) employees citywide with concurrence of Department Director (2½%)
Parks	Playground Safety	N/A	O&M Supervisor (2½%)
Building & Dev. Services	CA Registration Professional Civil Engineer	N/A	Chief Building Official (2½%) Deputy Chief Building Official (5%)

3. Compensation for certificates that may be issued at more than one grade shall only be given for the highest grade obtained, and shall not be cumulative for each grade in the series.

([1]) Effective July 10, 2007, pending the implementation of the Wall-to-Wall Study, O & M Supervisors in Water Operations shall receive Supplemental Pay. This Supplemental Pay is in lieu of the 2½% - 7½% cert pay for possession of Grade III, IV or V Water Distribution Operator or Water Treatment Operator certificates. This Supplemental Pay will initially be the equivalent of the designated 2½% - 7½% cert pay, plus an additional 5%.

4. The City shall, in accordance with the provisions of this article, compensate employees in the Wastewater Collections and Water Operations Division for "cross-over" certifications where there is a demonstrated benefit to the City. This decision is at the sole discretion of the Department Director.

5. The cumulative or maximum amount of compensation for the above certificates shall be seven and one-half (7 ½%) percent.

6. Certification Pay (2 ½% to 7 ½%) shall be included in base pay for purposes of compensation for approved paid leave.

ARTICLE 27. PAY DIFFERENTIALS

A. Bilingual Pay for Non-Exempt Employees. Each Department Director shall, on an annual basis, determine the number of bilingual employees that are needed for oral translation purposes within their department. For purposes of this Article, bilingual is defined as Spanish, Southeast Asian language(s) common to this area, sign language or other languages deemed desirable by the Department Director.

Annually in January, each department will provide to their employees a list of translation opportunities within the department. Employee participation in this effort is voluntary.

A review panel made up of three experts (as determined by the department) will assess the qualifications of employees wishing to volunteer. Two of the three panel members must agree that the person is capable of bilingual translation.

Effective August 21, 2007, employees who pass the review panel and are needed in this capacity by the department shall receive fifty ($50.00) dollars per pay period. Employees must agree to use their bilingual skills at the direction of the department for a minimum of one year from the time the Bilingual Pay begins, unless an unusual hardship is presented by the employee.

If the Department Director identifies more opportunities for translation than there are employees certified, the Department and Personnel may establish a second notification for volunteers and a second review panel in July of that year.

An employee certified and receiving Bilingual Pay shall cease receiving the Bilingual Pay after they have been out of the workplace for three consecutive pay periods. The Bilingual Pay will not be granted beginning the first day of the following pay period. The Bilingual Pay will be resumed the first full pay period the employee returns to work.

The Department Director may choose to eliminate the Bilingual Pay if it is determined that the translation services are not being effectively delivered by the employee and/or the need is no longer present in a specific division. If more employees are deemed to be capable of bilingual translation than the need for these services, the Department Director may choose to rotate this duty between eligible employees.

B. Educational Incentive. Effective June 29, 2004, employees who have completed one full year of service with the City, and who possess a Master's Degree or Juris Doctor from an accredited institution shall be eligible for one and one-half (1 1/2%) percent Educational Incentive Pay, subject to criteria established by the CITY. The maximum pay differential is one and one-half (1 1/2%) percent, regardless of the number of Degrees obtained.

C. Shift Pay. All non-exempt employees and exempt employees in the following classifications whose regularly scheduled workday requires that they work four (4) hours or more in a shift, shall be paid shift differential at the following rates for shifts actually worked:

Custodian Supervisor
Police Civilian Supervisor

3:00 p.m. to 11:00 p.m. shift - $5.00 per shift
11:00 p.m. to 7:00 a.m. shift - $7.00 per shift

If a regular shift requires an employee to work more than four (4) hours in both "swing" shift and "graveyard" shift as noted above, the employee shall receive $7.00 total per shift. If the employee is required to work more than four hours in both shifts as a result of paid overtime, the employee shall receive $12.00 per shift.

ARTICLE 28. DRESS, GROOMING AND UNIFORMS

A. Dress and Grooming
Employees shall be required, while working, to be clean and neat in appearance and be able to wear all safety equipment in an effective manner. Employees shall not wear or place any items on their person that would in any way impair safety on the job.

B. Uniforms
Employees in the following classifications shall wear CITY-provided uniforms, as designated below. Employees in the optional categories who elect a CITY-provided uniform, must wear the uniform.

Uniform Shirts required and Uniform Pants optional:
Operations and Maintenance Supervisor
Custodial Supervisor
Land Surveyor

Uniform Shirts and Uniform Pants optional:
Electrical Supervisor
WQC Operations Supervisor
WQC Maintenance Supervisor

Safety Shoes:
Effective July 1, 2003, purchase is at the CITY's discretion, based on job assignment and related risk, and is handled on a reimbursement basis. Effective August 1, 2004, reimbursement shall not exceed one hundred and eighty dollars ($180) annually. Replacement shall occur on an as-needed basis as approved by the immediate supervisor. Safety-toed shoes must meet ANSI standards.

C. Uniform Allowances - Police Department
Employees in the classifications of Police Clerk II (Confidential) and Police Civilian Supervisor shall be required to wear a uniform and shall receive a uniform allowance of sixty-five dollars ($65) per month effective July 1, 2004, paid quarterly. For employees in the classifications of Administrative Office Assistant III (Confidential), Senior Administrative Office Assistant (Confidential) and Executive Secretary, the wearing of a uniform is optional. These employees shall only receive the uniform allowance, stated above, if they elect to wear a uniform.

ARTICLE 29. VEHICLE ALLOWANCE

Designated Management employees may be granted a vehicle allowance in amounts ranging from one hundred dollars ($100) to two hundred dollars ($200) per month by the City Manager, based on Department Director recommendation and an annual justification relating to extensive use of a personal vehicle while conducting CITY business.

ARTICLE 30. DEFERRED COMPENSATION

A. The CITY shall continue to provide access to a deferred compensation program authorized by the City Council for the voluntary participation of City employees. In addition, the CITY shall match on behalf of a participating employee in a regular position, one and one-half percent (1.5%) of an employee's regular rate of pay on a bi-weekly basis; provided, the employee is contributing at least one and one-half percent (1.5%). For such employees who have been continuously employed by the CITY for nine (9) or more years, the CITY shall contribute two and one-half percent (2.5%); provided the employee is contributing at least two and one-half percent (2.5%). Effective October 4, 2005, this increase in the City's contribution shall be effective with the first payperiod to begin in the month following completion of nine (9) years of service, provided that the employee has completed any required documents.

B. At the time of retirement or separation, employees may defer some, or all, of their final pay and leave cashout entitlements. The amount placed into the employee's deferred compensation account may not exceed the then maximum IRS annual deferral. Deferrals must meet all applicable IRS regulations.

Employees contemplating such deferral must contact the City's Employee Benefits Coordinator to sign the appropriate documents at least thirty (30) calendar days before the month in which they plan to retire.

ARTICLE 31. HEALTH, DENTAL, VISION INSURANCE

A. All employees in regular positions budgeted for forty (40) hours or more per pay period shall be eligible to participate in the health, dental and vision programs authorized by the CITY. The CITY agrees to make available the health, dental and vision benefits currently provided for employees represented by MCMA or any other program(s) mutually agreed upon by the parties.

B. Employees may opt out of participation in any health plan, but shall continue to participate in the CITY dental and vision plans. This option may only be exercised during the CITY's open enrollment period or in coordination with spouse/registered domestic partner's open enrollment period and requires that the employee show proof of alternate health coverage. The Chiropractic and Psychological Services plans are not available under the Opt-out option. No cash payments will be made in-lieu of health coverage, but deferred compensation contributions will be provided as designated below.

C. For new employees, eligibility for health, dental and vision insurance benefits shall start with the beginning of the payroll period following completion of two (2) full pay periods.

D. The CITY shall contribute the following amounts bi-weekly (based on 24 pay periods) toward the combined total premium for health, dental and vision insurance plans; the employee is responsible for the balance of the premium cost, if any.

1. $445 bi-weekly ($890 monthly) for **employees with dependent coverage**, effective July 24, 2007.

   The CITY's contribution for employees with dependent coverage shall not exceed the actual premium amount for the lowest cost HMO (including dental and vision) offered by the CITY, regardless of the health plan selected by the employee or the contribution amounts listed above.

2. $247.50 bi-weekly ($495 monthly) for **employees without dependent coverage**, including the CITY's contribution to in-lieu deferred compensation, effective July 24, 2007, except that the contribution shall not be less than the combined premium for the lowest cost HMO, Dental and Vision plan.

   The CITY shall deposit to the employee's deferred compensation account any balance of the above contributions not needed to pay for the combined total premiums.

3. $200 bi-weekly ($400 monthly) for **employees who opt out of health coverage**, including the CITY's contribution to deferred compensation.

   The CITY shall deposit to the employee's deferred compensation account any balance of the above contributions not needed to pay for the combined dental and vision premiums.

E. Employees in regular positions budgeted less than eighty (80) hours per pay period or in job shared positions, shall receive premium contributions on a pro-rated basis.

F. Except as otherwise required by law or this MOU, employees on leave without pay in excess of forty (40) hours in a pay period shall not receive a contribution from the CITY towards premium payment and coverage shall cease, unless the premium is paid by the employee. Employees on leave without pay who return to work shall have their health, dental and vision insurance benefits reinstated on the first day of the pay period following the employee's return to work.

Article 22 of this MOU permits employees on Workers' Compensation who have exhausted their accrued leave to apply for and receive Catastrophic Leave donations. Employees who apply for and receive Catastrophic Leave donations in accordance with Article 22 will receive the contribution from the City towards premium payment if they use sufficient Catastrophic Leave that the combination of worker's compensation benefits plus Catastrophic Leave equals a full check. Such employees are limited to using the amount of Catastrophic Leave necessary to maintain the City's contribution toward premium payment.

G. The CITY shall continue an IRS Section 125 program for pre-tax deductions for the employee share of health, dental and vision insurance premiums and for dependent care costs.

H. The CITY agrees to provide the benefits described in this Article subject to carrier requirements. Selection of the insurance provider(s) shall be within the sole discretion of the CITY.

ARTICLE 32. RETIREE HEALTH INSURANCE

A. Employees may elect on a one-time basis at retirement to purchase health, dental and/or vision insurance under a CITY-authorized plan. Upon the death of a retired employee enrolled in one of the plans, surviving dependents retain eligibility for participation in the plans.

B. The CITY's monthly contribution rate towards health, dental and vision insurance for those retirees participating in the sick leave conversion program shall be up to the following amounts, as needed to cover the cost of the premiums:

1. $890 for retirees with dependent coverage, effective August 1, 2007.

   The CITY's contribution for **retirees with dependent coverage** shall not exceed the actual premium amount for the lowest cost HMO for active employees (including dental and vision) offered by the CITY, regardless of the health plan selected by the retiree or the contribution amounts listed above.

2. $470.55 for **retirees without dependent coverage**, effective August 1, 2007. This contribution rate is subject to changes in the median-priced health plan for active employees, excluding union sponsored plans or PPO's.

This contribution rate is subject to change August 1 of each year, pursuant to paragraph (G), ARTICLE 21 (SICK LEAVE), based on changes in premium rates for health, dental and/or vision insurance, provided that the contribution rate shall not exceed the following active employee rate: $495 effective July 24, 2007.

C. For retirees who do not elect to carry vision and/or dental insurance, the CITY's contribution shall be reduced proportionately.

D. If a retiree's health premium in any given month is less than the designated CITY contribution, the excess contribution shall be applied on behalf of the retiree to that month's premiums for dental and/or vision insurance, if the retiree has elected these plans.

ARTICLE 33. EMPLOYEE ASSISTANCE PLAN

CITY shall provide employees and dependents professional assistance with financial, marital, psychological, family, alcohol or drug related problems. The assistance shall consist of assessment, counseling and referral services up to a maximum of three (3) visits each per year for employees and dependents.

ARTICLE 34. LONG TERM DISABILITY INSURANCE

The CITY shall provide, at CITY expense, all employees with long term disability (LTD) insurance. The purpose is to provide employees with an LTD benefit while the employee is totally disabled equal to 66 2/3% of the first $12,000 per month in earnings, reduced by any income received from other sources. The plan provides for a sixty (60) day waiting period, but if the disability lasts longer than ninety (90) days, the disability payments will be retroactive to the 31st day. The LTD program will include the Managed Disability contract. Essentially, this contract provides that LTD benefit dollars will be offset by any workers' compensation income, mandates rehabilitation and changes the definition of disability to a loss of at least 20% of income.

ARTICLE 35. LIFE INSURANCE

The CITY shall provide, at CITY expense, all employees with term life insurance coverage in the amount of $120,000. Employees shall have the option to buy additional coverage at their own expense. If possible, the CITY will continue to make available insurance plans which will enable the employee to convert the City-provided policy to an individual policy upon retirement, at the retiree's expense.

ARTICLE 36. RETIREMENT

A. The CITY shall contract with the Public Employees' Retirement System to provide for the following retirement benefits (all references to Sections are from the Government Code):

1. 2% @ 55 Full Formula as provided in Section 21354.
2. Level III of 1959 Survivor Benefits as provided in Section 21573.
3. One-Year Final Compensation as provided in Section 20042.
4. Post-Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 if hired on or prior to October 20, 1981. For those hired after October 20, 1981, this benefit does not apply.
5. Benefits Payable to Surviving Spouse as provided in Section 21551 (Mandated Benefit).
6. Surviving Spouse-Remarriage as provided in Section 21635 (Mandated Benefit).
7. Military Service Credit as Public Service as provided in Section 21024.
8. Improved Non-Industrial Disability Allowance as provided in Section 21427.

B. Pursuant to the provisions of Section 20615, the CITY shall pay six and six tenths (6.6%) percent of the seven (7%) percent employee contribution in the employee's name to the Public Employees' Retirement System. The employee shall pay the remaining four-tenths (0.4%) percent. Such payments shall be implemented pursuant to the provisions of Section 20023(c)(4), and Internal Revenue Code 414 (h) (2) providing for pre-tax employee contributions.

ARTICLE 37. EDUCATIONAL AND TRAINING ALLOWANCES

A. Educational Partnership Program:
Non-probationary employees with at least one year of service may be eligible to receive financial support toward the attainment of an Associate, Bachelor's or Master's Degree from an accredited college or university. Program criteria and funding are at the discretion of the CITY, and subject to change annually. Program information is available from the Personnel Department.

B. Management Training Allowance:
Employees with one or more years of service in a management classification may be eligible to receive a Management Training Allowance, subject to available funds and approval of the Personnel Director. Program criteria and funding are at the discretion of the CITY.

ARTICLE 38. ANNUAL PHYSICAL EXAMINATION

In conjunction with the City's Occupational Medical Program, employees may avail themselves of an annual physical examination by the City's Occupational Medical Specialist at CITY expense. Employees may utilize their own physician and seek reimbursement for out of pocket expenses not to exceed the CITY's cost for comparable services.

ARTICLE 39. OUTSIDE EMPLOYMENT

A. All employees shall request the approval of the CITY prior to beginning any outside business or employment. Such business or employment shall not affect the time or quality of their CITY work or cast discredit upon or create embarrassment for the CITY.

B. Specific policies and procedures governing outside employment shall be as contained in the Personnel Rules and Personnel Administrative Orders.

ARTICLE 40. LAYOFF AND DEMOTION PROCEDURES UPON REDUCTION IN FORCE

A. When it becomes necessary through lack of work, lack of funds, or for other reasons to reduce the number of employees, the CITY shall prepare a lay-off list by classification within a department. Within each job class, employees shall be laid off in the following order: temporary, provisional, probationary, regular. The order of layoff shall then be based on the CITY's needs, with particular regard for length of service with the CITY and performance evaluation reports.

B. Whenever there is a reduction in work force, the CITY shall first demote to a vacancy, if any, in the next lower class for which the employee who is scheduled for layoff meets the minimum employment standards. Employees with the least continuous service and lowest performance evaluations shall be demoted first. All persons so demoted shall have their names placed on the classification reinstatement eligible list.

C. If there are no vacant positions in a lower class available, the CITY shall allow bumping from a higher to a lower classification within a department. An employee may bump into the next lowest class for which the minimum employment standards are met and the employee has greater overall CITY service, adjusted by performance evaluations as provided in paragraph (f) below. There shall be no lateral bumping. The sequence of bumping shall follow customary promotional progressions, except that an employee may bump down to a classification s/he previously held within the same department. When there is more than one possible lower classification for bumping consideration, the Department Director shall determine the appropriate classification based on the needs of the CITY.

D. If there are no vacant positions or bumping possibilities, the CITY shall lay off employees within a department and classification. Employees with the least continuous service and lowest performance evaluations shall be laid off first. All persons laid off shall have their names placed on the classification reinstatement eligible list.

E. To determine the length of continuous service, all uninterrupted employment, including periods of authorized leaves of absence which require a retirement contribution, and including all periods as a full-time CETA and PEP employee, shall be counted.

F. To determine the level of performance evaluation, the most recent two annual or probationary evaluations shall be used. Each rating of "does not meet expectations" shall reduce the employee's continuous years of service by two (2) years. Each rating of "meets expectations" shall reduce the employee's continuous years of service by one (1) year.

G. An employee scheduled for demotion or layoff shall be given a minimum of fourteen (14) calendar days notice in writing. The notice shall state the effective date and time of demotion or layoff.

H. Names shall be placed on classification reinstatement eligible lists in the inverse order of layoff as defined in paragraph (a). Vacant positions within a classification shall first be offered to those on the reinstatement list who meet the minimum employment standards for the vacant position. The eligibility of individuals on the reinstatement list shall be for a period of two (2) years from the date of demotion or layoff. Eligibles not responding to written notification of an opening within fourteen (14) calendar days shall have their names removed from the list.

I. A reinstated employee shall be entitled to the following benefits.

1. Prior sick leave accrual (unless sick leave was cashed out in accordance with the applicable rules).

2. Seniority at time of layoff or demotion for purposes of determining merit increases, vacation accruals and future reductions in the work force.

3. A salary as nearly as possible equivalent to that which the employee was receiving immediately prior to layoff or demotion. If the employee chooses to be reinstated in a class at a lower salary range than that held previously, the salary will be either equivalent to the salary immediately prior to layoff or demotion or as close to the equivalent as the new salary range allows.

J. A person appointed from a reinstatement eligible list within six (6) months to the same position held prior to layoff or demotion, will obtain permanent status upon reinstatement. All other persons appointed from a reinstatement list shall serve a new probationary period.

K. Employees laid off shall be paid for all accrued vacation, holidays, Management/ Confidential Leave, and overtime. Accrued sick leave shall either be paid as provided for by the applicable rules, or may remain on the books in the event of reinstatement. If reinstatement does not occur within two (2) years, sick leave shall be paid in accordance with the applicable rules at the employee's hourly rate of pay at the time of layoff.

L. The employee may elect to either withdraw their share of the retirement contribution or leave the money in the retirement system.

M. Layoffs and demotions shall not violate the Non-Discrimination Article of this MOU.

N. Whenever any provision of this Article conflicts with any other Article of this MOU or any Personnel Rules or Personnel Administrative Orders, the provisions of this Article shall prevail.

ARTICLE 41. GRIEVANCE PROCEDURE

A. Purpose: It is the purpose of this procedure to provide a simplified and definite method for employees represented by MCMA to resolve grievances they may have in their employment relationships with the CITY. The overall policy of this procedure is to provide for the resolution of grievances at the lowest level within the employment hierarchy of the CITY as is possible without unnecessarily disrupting CITY functions or services. The use of this procedure in resolving grievances shall not be held against any employee in any manner since the adoption of this procedure gives each employee the right to use it.

B. Definition of Grievance: A grievance is a disagreement between the CITY and an employee, group of employees, or MCMA concerning the interpretation, application, or violation of a specific Article(s) of this MOU or established written rule(s) or regulation(s), or custom(s) governing personnel practices.

C. Association Grievance: An Association grievance is a grievance as defined above which the Association files on its own behalf or on behalf of two (2) or more represented employees. An Association grievance shall be filed with the appropriate Department Director at the Third Step if all effected members are assigned within the same department. All other Association grievances shall be filed with the Personnel Director and shall be considered there as a Third Step grievance.

D. Time Limitations and Notification: Time limits are established to settle a grievance quickly. Time limits may be modified only by agreement of the parties. If at any step of this Grievance Procedure, the grievant is dissatisfied with the decision rendered or a decision has not been filed in a timely manner, it shall be the grievant's responsibility to initiate the action which submits the grievance to the next level of review within the time limits specified. Failure to submit the grievance within the time limits imposed shall terminate the grievance process and the matter shall be considered resolved.

   A formal grievance may be entertained or advanced to any step if the parties jointly so agree, provided that only MCMA may initiate submission of the grievance to a hearing officer in the Fourth Step of this procedure.

   For purposes of this procedure, notification to a party may be given personally, telephonically, or by mail. When notice is mailed to an employee, it shall be sent to the employee's current address of record. Notice by mail shall be deemed to have been completed on the fifth calendar day following deposit of notice with the United States Postal Service.

E. Jurisdiction: The Personnel Director shall have the sole authority within the CITY to provide the official CITY interpretation or application to any and all provisions of this MOU. The Personnel Director, or designee, may represent the department during any step of this procedure. Unit employees may use this procedure, regardless of membership in any employee organization. The decision to use this procedure and any step thereof is solely that of the employee. In using this procedure, however, any employee may choose to be represented by another, including the representative of an employee organization.

F. Use of City Time: Reasonable City time, subject to the discretion of the Department Director, may be used in the preparation of a written or oral grievance. City time may be used for the procedure set forth below.

G. Steps in the Grievance Procedure: No complaint shall be considered a grievance unless it is presented within twenty (20) calendar days after the employee is aware or should have been aware of the conditions precipitating the grievance. Under normal circumstances, no grievance will be processed if the events in the grievance are based on events ninety (90) calendar days or more old as of the written submission.

First Step: Any employee or group of employees having a grievance shall first discuss the grievance on a personal face-to-face basis with grievant's immediate supervisor, except as noted in section (c) above. This step shall not require a written grievance, however, the employee(s) must advise the supervisor that the First Step of the Grievance Procedure is being initiated. Within ten (10) calendar days immediate supervisor shall render a decision. If the grievant is not satisfied with the decision, the grievant may submit the grievance to the next step not later than ten (10) calendar days thereafter.

Second Step: If a mutually acceptable solution has not been reached at the First Step, the grievant shall submit the grievance in writing to the supervisor of the employee's immediate supervisor, who may be the Department Director. If the Department Director is the immediate supervisor or the reviewing supervisor at either the First Step or Second Step, the grievance must meet the requirements of the First and Second Steps, but shall be considered to be at the Third Step. The written grievance shall provide a detailed statement of the grievance, including dates, names and places, applicable MOU or MOU Article(s) or personnel practices, and the specific remedy requested. Within ten (10) calendar days the reviewing supervisor shall meet with the grievant and within ten (10) calendar days thereafter render a decision. If the grievant is not satisfied with the decision, the grievant may submit the grievance to the next step not later than ten (10) calendar days thereafter.

When a written grievance is submitted at the Second Step, the reviewing supervisor shall, upon receipt, forward a copy of the grievance to the Personnel Director for review. Should the reviewing supervisor fail to forward a copy of the grievance to the Personnel Director, the grievant shall not be prejudiced. If the Personnel Director makes a determination that the grievance is a matter for which this Grievance Procedure is not appropriate, the grievant and the supervisor shall be notified in writing within ten (10) calendar days.

Third Step: If a mutually acceptable solution has not been reached, the grievant shall submit the written grievance to the Department Director. The Department Director, or designee, shall utilize an "Interest Based" process in attempting to resolve the grievance, unless the parties mutually agree to waive the "Interest Based process. The Department Director, or designee, shall personally meet with the grievant as soon as is practicable, but not later than fourteen (14) calendar days from the presentation of the written grievance, to discuss the grievance and shall render a written decision to the grievant within fourteen (14) calendar days of such meeting. The Department

Director and the grievant may call any witnesses at such meeting in order to reach a decision. Any meeting may be continued by the Department Director if necessary to allow for a proper investigation. If the grievant is not satisfied with the written decision, the grievant may submit the grievance to the next step not later than thirty (30) calendar days thereafter.

Fourth Step: If a mutually acceptable solution was not reached in the prior step, the grievant may submit the written grievance to the Personnel Director, within the thirty (30) calendar days specified above. The Personnel Director shall forward the grievance to the City Manager. As an alternative to submitting the grievance to the City Manager, only MCMA can specify that the grievance be submitted to a hearing officer within the same thirty (30) calendar days specified above.

If a hearing is requested, the CITY shall request a list of five (5) hearing officers from the State Mediation and Conciliation Service. The CITY and MCMA shall alternately strike names from the list until only one name remains and the remaining name shall be that of the hearing officer. The cost of the hearing shall be shared equally by both parties. At the conclusion of the hearing, the hearing officer shall make recommendations to the City Manager. The decision of the City Manager shall be rendered within twenty (20) calendar days of receipt of the hearing officer's recommendations, or within twenty (20) calendar days of receipt of the grievance if no hearing before a hearing officer was requested. The decision of the City Manager shall be final and binding on all parties.

ARTICLE 42. DISCIPLINARY ACTIONS

A. The following shall constitute cause for disciplinary action, including dismissal, demotion, suspension and disciplinary probation.

1. Violation of the City Charter.
2. Violation of the Modesto Municipal Code.
3. Violation of the Personnel Rules or Personnel Administrative orders, excluding Personnel Administrative Order No. 13.8-03-1.
4. Fraud in securing employment.
5. Incompetency.
6. Inefficiency.
7. Inexcusable neglect of duty.
8. Insubordination.
9. Dishonesty.
10. Theft.
11. Being under the influence of alcohol or controlled substances while on duty.
12. Inexcusable absence without leave, except as described in Personnel Administrative Order No. 13.8-03.1.
13. Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
14. Discourteous treatment of the public or other employees.

15. Misuse of City property.
16. Violation of any established departmental rule, regulation, policy and/or manual.
17. Other failure of good behavior either during or outside of duty hours, which is of such a nature that it causes discredit to the City
18. Unlawful discrimination, including harassment, on the basis of race, color, national origin, ancestry, sex, marital status, religion, age, physical or mental disability or perceived disability, sexual orientation, or political affiliation or beliefs.
19. Substantial or credible threats of violence against any person including, but not limited to intimidation, harassment, and/or coercion made in the course of employment; or any action that is a violation of the CITY's Workplace Violence Policy.

B. The CITY shall have the right to demote an employee whose ability to perform required duties falls below an acceptable standard or for disciplinary purposes. Upon request of an employee, and approval by the CITY as provided for in ARTICLE 6 (PERFORMANCE EVALUATION), demotion may be made to a vacant position as a substitution for lay-off as provided for in ARTICLE 40 (LAYOFF AND DEMOTION PROCEDURES UPON REDUCTION IN FORCE). Demotion for the purposes of lay-off shall not be subject to appeal.

C. The CITY shall have the right to suspend an employee without pay at any time for cause. Suspension without pay shall not exceed ninety (90) calendar days in any fiscal year and shall be issued and served in accordance with the Fair Labor Standards Act.

D. The CITY shall have the right to dismiss an employee at any time. A regular employee in the classified service shall be entitled to receive a written statement of the reasons for dismissal.

E. The CITY shall have the right to place an employee on disciplinary probation. Disciplinary probation returns a non-probationary employee to probationary status. Employees placed on disciplinary probation may be dismissed without just cause or right of appeal from such dismissal. Disciplinary probation may only be imposed by delivery of written notice to the employee, pursuant to the Modesto Municipal Code, stating that the employee has been placed on disciplinary probation and stating the reasons for such action.

F. Employees may request an association or MCMA representative if the employee believes an investigatory interview could result in discipline as defined in subsection A.

ARTICLE 43. DISCIPLINARY APPEALS

A. Employees shall have the right to appeal any dismissal, suspension, disciplinary probation or demotion for disciplinary reasons. Said right of appeal shall not apply to reclassifications, lay-offs, demotions as a substitute for layoffs, changes in status for medical reasons, changes in status due to the employee's loss of a required license or certificate, step reductions or denial of a step increase, or any other actions taken for non-disciplinary reasons. For changes in status for medical reasons, and for step

reductions, appeal shall be provided for through the process in ARTICLE 41 (GRIEVANCE PROCEDURE).

B. An appeal must be filed in writing with the Director of Personnel within thirty (30) days following written notice to the employee of the discipline.

C. Upon filing of an appeal, the CITY shall request a list of seven (7) hearing officers from the State Mediation and Conciliation Service. The CITY and employee shall alternately strike names from the list until only one name remains and the remaining name shall be that of the Hearing Officer. The parties shall toss a coin to determine who will strike first. As an alternative, the parties may jointly stipulate to the use of any person as a Hearing Officer, whether identified on the list or not.

D. The Hearing Officer shall proceed in any manner which will, in the Hearing Officer's judgment, develop all the facts bearing upon the matter, and no informality on the Officer's part shall constitute just cause for criticism of findings and decisions. Upon completion of the hearing, the Hearing Officer shall furnish certified copies of findings and decisions to the persons concerned. The decision of the Hearing Officer shall be final and binding.

E. The person selected as the Hearing Officer shall set a date for the start of the hearing after consultation with the parties. Failure of the employee to appear at a hearing (except for good cause) shall be deemed withdrawal of the appeal and the discipline being appealed shall stand and be final.

F. Oral evidence at the hearing shall be taken only on oath or affirmation.

G. Each party shall have these rights at the hearing: To be represented by Counsel; to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; to subpoena witnesses and relevant documentary evidence; and to rebut the evidence against him or her. Further, at the hearing the employee may be examined and may examine or cause any person to be examined under Section 776 of the Evidence Code.

H. The hearing need not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege as set forth in the Evidence Code shall apply. Irrelevant and unduly repetitious evidence shall be excluded.

Evidence of specific instances of a complainants' sexual conduct with individuals other than the alleged perpetrator is presumed inadmissible absent an offer of proof establishing its relevance and reliability and that its probative value is not substantially outweighed by the probability that its admission will create substantial danger of undue prejudice or confuse the issue. For purpose of this paragraph, "complainant" means any person claiming to have been subjected to conduct which constitutes sexual harassment, sexual assault, or sexual battery.

I. At the request of either of the parties, the CITY shall employ a competent court reporter to record the proceedings.

J. If either party requests it, the Hearing Officer may exclude from the hearing room any witness not at the time under examination so that the witness may not hear the testimony of other witnesses, but a party to the proceedings may not be so excluded. Parties to the proceedings shall include the appellant and a management employee from appellant's department to be selected by the CITY, both of whom may attend the hearing even though they testify as witnesses. In addition, each side may designate other representatives to attend the hearing provided these representatives do not testify at the hearing.

K. The Hearing Officer shall, after the matter is submitted, prepare and file findings and decisions. The decisions of the Hearing Officer shall be final and binding. The decisions shall be rendered as quickly as possible with due regard for the hardships that may result from undue delay.

L. The cost of the Hearing Officer and court reporter shall be divided equally between the CITY and the employee. The Hearing Officer and court reporter shall separately bill the CITY and the appellant for one-half of the cost of their respective services.

ARTICLE 44. TIME BANK

A. Each employee covered by this MOU shall contribute up to one (1) hour of vacation time to create a pool of two hundred and fifty (250) hours to be used for MCMA business (other than meet and confer and meet and consult items, and routine administrative functions dealing with the CITY). At the beginning of each calendar year, the CITY shall deduct an equal amount of hours or portions thereof of vacation time from each employee covered by this MOU to bring the total remaining pool hours to the two hundred and fifty (250) hour maximum.

B. Use of the time bank shall be accounted for and processed by the Finance Department using a specifically designated payroll code. Association members utilizing the time bank shall be responsible for reporting the time used on their payroll record. It is the responsibility of the employee using the time bank to obtain approval from the MCMA President or Vice-President.

ARTICLE 45. CREDIT ASSOCIATION DEDUCTIONS

The CITY shall provide for employee payroll deductions for Modesto First or OE3 Credit Union obligations.

ARTICLE 46. COMMUTER BUS PASSES

The CITY will make available free Modesto Area Express (MAX) commuter bus passes for use by employees in commuting to and from work.

ARTICLE 47. EMPLOYEE PARKING

Employees whose work site is at Tenth Street Place shall be assigned, by the CITY, to free parking (non-transferable), during their work days, at the Ninth Street Garage, the Tenth Street Garage and/or at other designated parking locations within a two-block radius of Tenth Street Place. Failure to utilize this right may, after notification to the employee, result in the deactivation of their proximity card garage access or revocation of the parking pass issued to the employee. The employee may decline, in writing, their parking rights as provided in this Article.

ARTICLE 48. NON DISCRIMINATION

A. The CITY and MCMA agree that the provisions of this MOU shall be applied without favor or discrimination based on race, color, ancestry, religion or creed, sex, national origin, marital status, age, physical or mental disability or perceived disability, medical condition, pregnancy-related condition, sexual orientation or political affiliation. They agree to recognize, respect and support the CITY's commitment to nondiscrimination in employment as set forth in the CITY's Equal Opportunity Plan and CITY's Policy Against Harassment and Discrimination. MCMA agrees to encourage its members to assist in the implementation of that program.

B. MCMA agrees to and acknowledges its responsibility to fairly represent all employees in the bargaining unit without regard to race, color, ancestry, religion or creed, sex, national origin, marital status, age, physical or mental disability or perceived disability, medical condition, pregnancy-related condition, sexual orientation or political affiliation, job classification or employment status.

C. Because the Americans With Disabilities Act (ADA) requires accommodations for individuals protected under the Act, and because these accommodations must be determined on an individual, case-by-case basis, the parties agree that the provisions of this MOU may require modification in order for the CITY to avoid discrimination under the Act.

D. The MCMA recognizes that the CITY has the legal obligation to meet with the individual applicant/employee to be accommodated before any adjustment is made in working conditions. The MCMA will be allowed to meet and consult with the CITY concerning the proposed accommodations prior to implementation by the CITY.

E. Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the grievance procedure.

ARTICLE 49. PENDING ISSUE

The parties agree during the term of this MOU to meet and confer regarding the following issues.

A. Succession Planning: The City intends to develop a succession planning program. The City and MCMA agree to meet and confer on the impacts of the implementation of a succession planning program, including but not limited to cross-training, acting assignments and intern programs.

B. Personnel Rules: The City anticipates rewriting the City's Personnel Rules. The City and MCMA agree to meet and confer on any changes to the Personnel Rules that impact wages, hours or terms and conditions of employment.

C. Labor Market Salary Survey: The parties agree to meet and confer on labor market agencies to be utilized in the survey. The market survey is anticipated to commence no later than October 15, 2007, or sooner if a consultant can be secured, approved by Council and consultant is available to begin. The final market data is anticipated to be available for negotiations purposes by March 24, 2008 (90 days prior to expiration of this MOU). The parties agree to expeditiously begin negotiations once final market data is available, preferably prior to March 24, 2008.

D. Retiree Health: The parties agree to continue the evaluation of an alternative Retiree Health Program Structure (RHPS). Should the parties identify an acceptable alternative retiree health program structure, negotiations shall commence on implementation of the selected retiree health program structure. Negotiations shall include the opportunity to discuss an extended multi-year contract. Both parties acknowledge that the Association will link enhanced PERS retirement formula on the basis of savings that may result from a new retiree health program structure. The parties desire to identify an acceptable alternative to the retiree health program structure by December 1, 2007.

ARTICLE 50. JOB ACTIONS

MCMA agrees and acknowledges that strikes, sick-ins, slow-downs or other forms of work stoppage or disturbances are detrimental to the responsibility of MCMA and its members to insure that high quality service is provided to the people of the City of Modesto. MCMA

and its members agree not to sanction, support, condone, or engage in any such actions directly or indirectly during the term of this MOU.

ARTICLE 51. SEVERABILITY

A. If any provision of this MOU is declared by legislative action or by a court of competent jurisdiction to be contrary to law, then said provision shall be deemed severable from all other provisions and shall in no way affect the validity of the other provisions.

B. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the full right and adequate opportunity to make demands and proposals with respect to any subject or matter within the scope of representation, that the understandings arrived at after the exercise of that right are set forth in this Agreement. The express provisions of this Agreement for its duration, therefore, constitute the complete and total contract between the CITY and MCMA with respect to wages, hours and other terms and conditions of employment. Any prior or existing Agreement between the parties, whether formal or informal, regarding any such matters is hereby superseded and terminated in its entirety. The parties voluntarily waive the right to meet and confer in good faith with respect to any subject or matter referred to or covered in this Agreement, except that the parties, by mutual agreement, may meet and confer and agree to amend any matter in this Agreement, including compensation; provided, however, that the CITY may make changes to the personnel rules consistent with rights MCMA has to meet with the CITY prior to implementation of such changes.

C. If the CITY should absorb another entity which results in employees of the other entity being covered by this MOU the CITY and MCMA shall expeditiously meet and confer regarding the effect of such action on wages, hours and other terms and conditions of employment of such new employees.

D. All pertinent ordinances and resolutions shall be revised to conform with this MOU. All other ordinances, resolutions, rules and regulations, practices and policies shall continue in force and effect during the term of this MOU unless modified according to the provisions of this MOU.

ARTICLE 52. PROVISIONS OF LAW

It is understood and agreed that this MOU is subject to all current and future applicable Federal and State laws and regulations and the current provisions of the City Charter and Code. If any part or provision of this MOU is in conflict or inconsistent with such applicable provisions of those Federal, State or City enactments or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part or provisions shall be suspended and superseded by such applicable law or regulations, and the remainder of this MOU shall not be affected. If any part or provision of this MOU is suspended or superseded, the parties agree to reopen negotiations regarding the suspended or superseded part or provision with the understanding that total compensation to employees under this MOU shall not be reduced or increased as a result of this Article.

ARTICLE 53. APPROVAL

This MOU shall be presented to the Modesto City Council for approval and shall not be binding until so approved.

CITY OF MODESTO

Robin Renwick — Date 12-4-07
Personnel Director

Judith Ray — Date 12-4-07
Deputy City Manager

Bob Quintella — Date 12.4.07
Deputy Director
Cultural & Enterprise Services

Jill Peltier — Date 12-4-07
Employee Relations Specialist

MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION

Laurie Smith — Date 11/15/07
MCMA President

Linda Boston — Date 11/15/07
MCMA Vice President

Alan Cozby — Date 11/15/07
MCMA Negotiator

Leslie Curtin — Date 11/15/07
MCMA Director

Kim Gillingham — Date 11/30/07
MCMA Business Representative

Classifications and Salary Ranges
Modesto Confidential and Management Association Bargaining Unit
Effective July 24, 2007

Salary Range	Classification	FLSA Status
420	Accountant I (Confidential)	Non-Exempt
428	Accountant II	Non-Exempt
445	Accounting Division Manager	Exempt
425	Administrative Analyst I	Non-Exempt
431	Administrative Analyst II	Both
407	Administrative Clerk II (Confidential)	Non-Exempt
407	Administrative Office Assistant II (Confidential)	Non-Exempt
411	Administrative Office Assistant III (Confidential)	Non-Exempt
439	Administrative Services Officer	Exempt
413	Administrative Technician (Confidential)	Non-Exempt
441	Airport Manager	Exempt
427	Assistant City Clerk/Auditor	Non-Exempt
436	Assistant Civil Engineer	Non-Exempt
424	Assistant Planner	Non-Exempt
431	Assistant Risk Manager	Exempt
436	Assistant Traffic Engineer	Exempt
443	Associate Civil Engineer	Exempt
430	Associate Planner	Exempt
443	Associate Traffic Engineer	Exempt
431	Budget Analyst I	Non-Exempt
434	Budget Analyst II	Exempt
438	Budget Officer	Exempt
441	Building Maintenance Superintendent	Exempt
435	Business Analyst	Exempt
447	Business Development Division Manager	Exempt
424	Buyer	Non-Exempt
450	Chief Building Official	Exempt
432	Communications Specialist	Exempt
439	Community Facilities Districts Administrative Officer	Exempt
430	Community Services Supervisor	Exempt
432	Compost Facility Supervisor	Exempt
435	Cultural Services Manager	Exempt
423	Custodian Supervisor	Exempt
442	Customer Services Division Manager	Exempt
432	Customer Services Supervisor	Exempt
446	Deputy Chief Building Official	Exempt
420	Deputy City Clerk	Non-Exempt
436	Electrical Supervisor	Exempt
435	Emergency Medical Services Coordinator	Exempt

Exhibit 1

Salary Range	Classification	FLSA Status
420	Employee Benefits Coordinator	Non-Exempt
434	Environmental Laboratory Supervisor	Exempt
430	Events Coordinator	Non-Exempt
438	Events Supervisor	Exempt
420	Executive Secretary (excluding position in City Manager's Office)	Non-Exempt
441	Fleet Manager	Exempt
441	Housing and Urban Development Manager	Exempt
438	Housing Program Supervisor	Exempt
446	Information Technology Unit Manager	Exempt
435	Integrated Waste Specialist	Exempt
432	Junior Civil Engineer	Non-Exempt
432	Junior Traffic Engineer	Non-Exempt
438	Land Surveyor	Exempt
418	Legal Secretary (Confidential)	Non-Exempt
420	Legal Services Technician (Confidential)	Non-Exempt
435	Management Analyst	Exempt
442	Manager of Budget and Financial Analysis	Exempt
432	Neighborhood Preservation Supervisor	Exempt
422	Office Supervisor (excluding position in Personnel Office)	Exempt
432	Operations and Maintenance Supervisor	Exempt
434	Operations Supervisor	Exempt
433	Organizational Development Specialist	Exempt
423	Parking Services Supervisor	Exempt
441	Parks Operations Superintendent	Exempt
441	Parks Planning and Development Manager	Exempt
431	Personnel Analyst	Non-Exempt
447	Planning Division Manager	Exempt
426	Police Civilian Supervisor	Exempt
411	Police Clerk II (Confidential)	Non-Exempt
424	Police Facilities Coordinator	Exempt
444	Principal Planner	Exempt
438	Property Agent	Exempt
419	Public Information Technician (Confidential)	Non-Exempt
438	Public Safety Business Services Analyst	Exempt
441	Purchasing Manager	Exempt
441	Recreation Program Manager	Exempt
432	Recreation Supervisor II	Exempt
431	Recycling Program Coordinator	Exempt
434	Regulatory Compliance Supervisor	Exempt

Exhibit 1

Salary Range	Classification	FLSA Status
434	SCADA Supervisor	Exempt
415	Secretary (Confidential)	Non-Exempt
432	Senior Accountant	Exempt
415	Senior Administrative Office Assistant (Confidential)	Non-Exempt
438	Senior Business Analyst	Exempt
428	Senior Buyer	Exempt
450	Senior Civil Engineer	Exempt
434	Senior Community Development Program Specialist	Exempt
430	Senior Crime Analyst	Exempt
434	Senior Housing Rehabilitation Specialist	Exempt
435	Senior Personnel Analyst	Exempt
436	Senior Planner	Exempt
430	Software Analyst I	Exempt
434	Software Analyst II	Exempt
438	Software Analyst III	Exempt
442	Software Analyst IV	Exempt
444	Solid Waste Program Manager	Exempt
426	Stores Manager	Exempt
441	Streets Superintendent	Exempt
434	Supervising Accountant	Exempt
426	Supervising Animal Control Officer	Exempt
444	Supervising Building Inspector	Exempt
442	Supervising Construction Inspector	Exempt
434	Systems Engineer I	Exempt
438	Systems Engineer II	Exempt
442	Systems Engineer III	Exempt
418	Systems Technician I (Confidential)	Non-Exempt
422	Systems Technician II (Confidential)	Non-Exempt
426	Systems Technician III (Confidential)	Non-Exempt
450	Traffic Engineer	Exempt
444	Transit Manager	Exempt
440	Transportation Planner	Exempt
441	Urban Forestry Superintendent	Exempt
422	Utility Dispatch Supervisor	Exempt
441	Wastewater Collections Superintendent	Exempt
446	Wastewater Treatment Plant Manager	Exempt
432	Water Quality Control Maintenance Supervisor	Exempt
440	Water Quality Control Operations Supervisor	Exempt
447	Water Superintendent	Exempt
435	Weed and Seed Program Coordinator	Exempt
419	Workers' Compensation Claims Assistant	Non-Exempt
422	Workers' Compensation Claims Examiner I	Non-Exempt
427	Workers' Compensation Claims Examiner II	Exempt

Exhibit 1

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08
EFFECTIVE July 24, 2007 (amended August 8, 2007)

SCHEDULE - D MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)

HOURLY 3.0

Range	1	2	3	4	5	6	7	8	9
0403	13.8087	14.1539	14.5077	14.8704	15.2422	15.6233	16.0139	16.4142	16.8246
0404	14.1539	14.5077	14.8704	15.2422	15.6233	16.0139	16.4142	16.8246	17.2452
0405	14.5077	14.8704	15.2422	15.6233	16.0139	16.4142	16.8246	17.2452	17.6763
0406	14.8704	15.2422	15.6233	16.0139	16.4142	16.8246	17.2452	17.6763	18.1182
0407	15.2422	15.6233	16.0139	16.4142	16.8246	17.2452	17.6763	18.1182	18.5712
0408	15.6233	16.0139	16.4142	16.8246	17.2452	17.6763	18.1182	18.5712	19.0355
0409	16.0139	16.4142	16.8246	17.2452	17.6763	18.1182	18.5712	19.0355	19.5114
0410	16.4142	16.8246	17.2452	17.6763	18.1182	18.5712	19.0355	19.5114	19.9992
0411	16.8246	17.2452	17.6763	18.1182	18.5712	19.0355	19.5114	19.9992	20.4992
0412	17.2452	17.6763	18.1182	18.5712	19.0355	19.5114	19.9992	20.4992	21.0117
0413	17.6763	18.1182	18.5712	19.0355	19.5114	19.9992	20.4992	21.0117	21.5370
0414	18.1182	18.5712	19.0355	19.5114	19.9992	20.4992	21.0117	21.5370	22.0754
0415	18.5712	19.0355	19.5114	19.9992	20.4992	21.0117	21.5370	22.0754	22.6273
0416	19.0355	19.5114	19.9992	20.4992	21.0117	21.5370	22.0754	22.6273	23.1930
0417	19.5114	19.9992	20.4992	21.0117	21.5370	22.0754	22.6273	23.1930	23.7728
0418	19.9992	20.4992	21.0117	21.5370	22.0754	22.6273	23.1930	23.7728	24.3671
BI-WEEKLY	1	2	3	4	5	6	7	8	9
0403	1,104.70	1,132.31	1,160.62	1,189.63	1,219.38	1,249.86	1,281.11	1,313.14	1,345.97
0404	1,132.31	1,160.62	1,189.63	1,219.38	1,249.86	1,281.11	1,313.14	1,345.97	1,379.62
0405	1,160.62	1,189.63	1,219.38	1,249.86	1,281.11	1,313.14	1,345.97	1,379.62	1,414.10
0406	1,189.63	1,219.38	1,249.86	1,281.11	1,313.14	1,345.97	1,379.62	1,414.10	1,449.46
0407	1,219.38	1,249.86	1,281.11	1,313.14	1,345.97	1,379.62	1,414.10	1,449.46	1,485
0408	1,249.86	1,281.11	1,313.14	1,345.97	1,379.62	1,414.10	1,449.46	1,485.70	1,522
0409	1,281.11	1,313.14	1,345.97	1,379.62	1,414.10	1,449.46	1,485.70	1,522.84	1,560
0410	1,313.14	1,345.97	1,379.62	1,414.10	1,449.46	1,485.70	1,522.84	1,560.91	1,599.94
0411	1,345.97	1,379.62	1,414.10	1,449.46	1,485.70	1,522.84	1,560.91	1,599.94	1,639.94
0412	1,379.62	1,414.10	1,449.46	1,485.70	1,522.84	1,560.91	1,599.94	1,639.94	1,680.94
0413	1,414.10	1,449.46	1,485.70	1,522.84	1,560.91	1,599.94	1,639.94	1,680.94	1,722.96
0414	1,449.46	1,485.70	1,522.84	1,560.91	1,599.94	1,639.94	1,680.94	1,722.96	1,766.03
0415	1,485.70	1,522.84	1,560.91	1,599.94	1,639.94	1,680.94	1,722.96	1,766.03	1,810.18
0416	1,522.84	1,560.91	1,599.94	1,639.94	1,680.94	1,722.96	1,766.03	1,810.18	1,855.44
0417	1,560.91	1,599.94	1,639.94	1,680.94	1,722.96	1,766.03	1,810.18	1,855.44	1,901.82
0418	1,599.94	1,639.94	1,680.94	1,722.96	1,766.03	1,810.18	1,855.44	1,901.82	1,949.37
MONTHLY	1	2	3	4	5	6	7	8	9
0403	2,402.72	2,462.77	2,524.35	2,587.45	2,652.15	2,718.45	2,786.41	2,856.08	2,927.48
0404	2,462.77	2,524.35	2,587.45	2,652.15	2,718.45	2,786.41	2,856.08	2,927.48	3,000.67
0405	2,524.35	2,587.45	2,652.15	2,718.45	2,786.41	2,856.08	2,927.48	3,000.67	3,075.67
0406	2,587.45	2,652.15	2,718.45	2,786.41	2,856.08	2,927.48	3,000.67	3,075.67	3,152.58
0407	2,652.15	2,718.45	2,786.41	2,856.08	2,927.48	3,000.67	3,075.67	3,152.58	3,231.40
0408	2,718.45	2,786.41	2,856.08	2,927.48	3,000.67	3,075.67	3,152.58	3,231.40	3,312.18
0409	2,786.41	2,856.08	2,927.48	3,000.67	3,075.67	3,152.58	3,231.40	3,312.18	3,394.98
0410	2,856.08	2,927.48	3,000.67	3,075.67	3,152.58	3,231.40	3,312.18	3,394.98	3,479.87
0411	2,927.48	3,000.67	3,075.67	3,152.58	3,231.40	3,312.18	3,394.98	3,479.87	3,566.87
0412	3,000.67	3,075.67	3,152.58	3,231.40	3,312.18	3,394.98	3,479.87	3,566.87	3,656.04
0413	3,075.67	3,152.58	3,231.40	3,312.18	3,394.98	3,479.87	3,566.87	3,656.04	3,747.44
0414	3,152.58	3,231.40	3,312.18	3,394.98	3,479.87	3,566.87	3,656.04	3,747.44	3,841
0415	3,231.40	3,312.18	3,394.98	3,479.87	3,566.87	3,656.04	3,747.44	3,841.12	3,937
0416	3,312.18	3,394.98	3,479.87	3,566.87	3,656.04	3,747.44	3,841.12	3,937.14	4,035.58
0417	3,394.98	3,479.87	3,566.87	3,656.04	3,747.44	3,841.12	3,937.14	4,035.58	4,136.46
0418	3,479.87	3,566.87	3,656.04	3,747.44	3,841.12	3,937.14	4,035.58	4,136.46	4,239.88

Exhibit 2

CITY OF MODESTO

SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08

EFFECTIVE July 24, 2007 (amended August 8, 2007)

SCHEDULE - D MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)

HOURLY									3.00%
0419	20.4992	21.0117	21.5370	22.0754	22.6273	23.1930	23.7728	24.3671	24.9763
0420	21.0117	21.5370	22.0754	22.6273	23.1930	23.7728	24.3671	24.9763	25.6007
0421	21.5370	22.0754	22.6273	23.1930	23.7728	24.3671	24.9763	25.6007	26.2407
0422	22.0754	22.6273	23.1930	23.7728	24.3671	24.9763	25.6007	26.2407	26.8967
0423	22.6273	23.1930	23.7728	24.3671	24.9763	25.6007	26.2407	26.8967	27.5691
0424	23.1930	23.7728	24.3671	24.9763	25.6007	26.2407	26.8967	27.5691	28.2583
0425	23.7728	24.3671	24.9763	25.6007	26.2407	26.8967	27.5691	28.2583	28.9648
0426	24.3671	24.9763	25.6007	26.2407	26.8967	27.5691	28.2583	28.9648	29.6889
0427	24.9763	25.6007	26.2407	26.8967	27.5691	28.2583	28.9648	29.6889	30.4311
0428	25.6007	26.2407	26.8967	27.5691	28.2583	28.9648	29.6889	30.4311	31.1919
0429	26.2407	26.8967	27.5691	28.2583	28.9648	29.6889	30.4311	31.1919	31.9717
0430	26.8967	27.5691	28.2583	28.9648	29.6889	30.4311	31.1919	31.9717	32.7710
0431	27.5691	28.2583	28.9648	29.6889	30.4311	31.1919	31.9717	32.7710	33.5903
0432	28.2583	28.9648	29.6889	30.4311	31.1919	31.9717	32.7710	33.5903	34.4301
BI-WEEKLY	1	2	3	4	5	6	7	8	9
0419	1,639.94	1,680.94	1,722.96	1,766.03	1,810.18	1,855.44	1,901.82	1,949.37	1,998.10
0420	1,680.94	1,722.96	1,766.03	1,810.18	1,855.44	1,901.82	1,949.37	1,998.10	2,048.06
0421	1,722.96	1,766.03	1,810.18	1,855.44	1,901.82	1,949.37	1,998.10	2,048.06	2,099.26
0422	1,766.03	1,810.18	1,855.44	1,901.82	1,949.37	1,998.10	2,048.06	2,099.26	2,151.74
0423	1,810.18	1,855.44	1,901.82	1,949.37	1,998.10	2,048.06	2,099.26	2,151.74	2,205.53
0424	1,855.44	1,901.82	1,949.37	1,998.10	2,048.06	2,099.26	2,151.74	2,205.53	2,260.66
0425	1,901.82	1,949.37	1,998.10	2,048.06	2,099.26	2,151.74	2,205.53	2,260.66	2,317.18
0426	1,949.37	1,998.10	2,048.06	2,099.26	2,151.74	2,205.53	2,260.66	2,317.18	2,375.11
0427	1,998.10	2,048.06	2,099.26	2,151.74	2,205.53	2,260.66	2,317.18	2,375.11	2,434.49
0428	2,048.06	2,099.26	2,151.74	2,205.53	2,260.66	2,317.18	2,375.11	2,434.49	2,495.35
0429	2,099.26	2,151.74	2,205.53	2,260.66	2,317.18	2,375.11	2,434.49	2,495.35	2,557.74
0430	2,151.74	2,205.53	2,260.66	2,317.18	2,375.11	2,434.49	2,495.35	2,557.74	2,621.68
0431	2,205.53	2,260.66	2,317.18	2,375.11	2,434.49	2,495.35	2,557.74	2,621.68	2,687.22
0432	2,260.66	2,317.18	2,375.11	2,434.49	2,495.35	2,557.74	2,621.68	2,687.22	2,754.41
MONTHLY	1	2	3	4	5	6	7	8	9
0419	3,566.87	3,656.04	3,747.44	3,841.12	3,937.14	4,035.58	4,136.46	4,239.88	4,345.87
0420	3,656.04	3,747.44	3,841.12	3,937.14	4,035.58	4,136.46	4,239.88	4,345.87	4,454.53
0421	3,747.44	3,841.12	3,937.14	4,035.58	4,136.46	4,239.88	4,345.87	4,454.53	4,565.89
0422	3,841.12	3,937.14	4,035.58	4,136.46	4,239.88	4,345.87	4,454.53	4,565.89	4,680.03
0423	3,937.14	4,035.58	4,136.46	4,239.88	4,345.87	4,454.53	4,565.89	4,680.03	4,797.03
0424	4,035.58	4,136.46	4,239.88	4,345.87	4,454.53	4,565.89	4,680.03	4,797.03	4,916.94
0425	4,136.46	4,239.88	4,345.87	4,454.53	4,565.89	4,680.03	4,797.03	4,916.94	5,039.87
0426	4,239.88	4,345.87	4,454.53	4,565.89	4,680.03	4,797.03	4,916.94	5,039.87	5,165.86
0427	4,345.87	4,454.53	4,565.89	4,680.03	4,797.03	4,916.94	5,039.87	5,165.86	5,295.02
0428	4,454.53	4,565.89	4,680.03	4,797.03	4,916.94	5,039.87	5,165.86	5,295.02	5,427.39
0429	4,565.89	4,680.03	4,797.03	4,916.94	5,039.87	5,165.86	5,295.02	5,427.39	5,563.08
0430	4,680.03	4,797.03	4,916.94	5,039.87	5,165.86	5,295.02	5,427.39	5,563.08	5,702.15
0431	4,797.03	4,916.94	5,039.87	5,165.86	5,295.02	5,427.39	5,563.08	5,702.15	5,844.70
0432	4,916.94	5,039.87	5,165.86	5,295.02	5,427.39	5,563.08	5,702.15	5,844.70	5,990.84

Exhibit 2

CITY OF MODESTO

SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08

EFFECTIVE July 24, 2007 (amended August 8, 2007)

SCHEDULE - D MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)

HOURLY									3.0
0433	28.9648	29.6889	30.4311	31.1919	31.9717	32.7710	33.5903	34.4301	35.29
0434	29.6889	30.4311	31.1919	31.9717	32.7710	33.5903	34.4301	35.2909	36.1732
0435	30.4311	31.1919	31.9717	32.7710	33.5903	34.4301	35.2909	36.1732	37.0775
0436	31.1919	31.9717	32.7710	33.5903	34.4301	35.2909	36.1732	37.0775	38.0044
0437	31.9717	32.7710	33.5903	34.4301	35.2909	36.1732	37.0775	38.0044	38.9545
0438	32.7710	33.5903	34.4301	35.2909	36.1732	37.0775	38.0044	38.9545	39.9284
0439	33.5903	34.4301	35.2909	36.1732	37.0775	38.0044	38.9545	39.9284	40.9266
0440	34.4301	35.2909	36.1732	37.0775	38.0044	38.9545	39.9284	40.9266	41.9498
0441	35.2909	36.1732	37.0775	38.0044	38.9545	39.9284	40.9266	41.9498	42.9985
0442	36.1732	37.0775	38.0044	38.9545	39.9284	40.9266	41.9498	42.9985	44.0735
0443	37.0775	38.0044	38.9545	39.9284	40.9266	41.9498	42.9985	44.0735	45.1753
0444	38.0044	38.9545	39.9284	40.9266	41.9498	42.9985	44.0735	45.1753	46.3047
0445	38.9545	39.9284	40.9266	41.9498	42.9985	44.0735	45.1753	46.3047	47.4623
0446	39.9284	40.9266	41.9498	42.9985	44.0735	45.1753	46.3047	47.4623	48.6489
BI-WEEKLY	1	2	3	4	5	6	7	8	9
0433	2,317.18	2,375.11	2,434.49	2,495.35	2,557.74	2,621.68	2,687.22	2,754.41	2,823.27
0434	2,375.11	2,434.49	2,495.35	2,557.74	2,621.68	2,687.22	2,754.41	2,823.27	2,893.86
0435	2,434.49	2,495.35	2,557.74	2,621.68	2,687.22	2,754.41	2,823.27	2,893.86	2,966.20
0436	2,495.35	2,557.74	2,621.68	2,687.22	2,754.41	2,823.27	2,893.86	2,966.20	3,040.35
0437	2,557.74	2,621.68	2,687.22	2,754.41	2,823.27	2,893.86	2,966.20	3,040.35	3,116
0438	2,621.68	2,687.22	2,754.41	2,823.27	2,893.86	2,966.20	3,040.35	3,116.36	3,194
0439	2,687.22	2,754.41	2,823.27	2,893.86	2,966.20	3,040.35	3,116.36	3,194.27	3,274
0440	2,754.41	2,823.27	2,893.86	2,966.20	3,040.35	3,116.36	3,194.27	3,274.13	3,355.98
0441	2,823.27	2,893.86	2,966.20	3,040.35	3,116.36	3,194.27	3,274.13	3,355.98	3,439.88
0442	2,893.86	2,966.20	3,040.35	3,116.36	3,194.27	3,274.13	3,355.98	3,439.88	3,525.88
0443	2,966.20	3,040.35	3,116.36	3,194.27	3,274.13	3,355.98	3,439.88	3,525.88	3,614.02
0444	3,040.35	3,116.36	3,194.27	3,274.13	3,355.98	3,439.88	3,525.88	3,614.02	3,704.38
0445	3,116.36	3,194.27	3,274.13	3,355.98	3,439.88	3,525.88	3,614.02	3,704.38	3,796.98
0446	3,194.27	3,274.13	3,355.98	3,439.88	3,525.88	3,614.02	3,704.38	3,796.98	3,891.91
MONTHLY	1	2	3	4	5	6	7	8	9
0433	5,039.87	5,165.86	5,295.02	5,427.39	5,563.08	5,702.15	5,844.70	5,990.84	6,140.61
0434	5,165.86	5,295.02	5,427.39	5,563.08	5,702.15	5,844.70	5,990.84	6,140.61	6,294.15
0435	5,295.02	5,427.39	5,563.08	5,702.15	5,844.70	5,990.84	6,140.61	6,294.15	6,451.49
0436	5,427.39	5,563.08	5,702.15	5,844.70	5,990.84	6,140.61	6,294.15	6,451.49	6,612.76
0437	5,563.08	5,702.15	5,844.70	5,990.84	6,140.61	6,294.15	6,451.49	6,612.76	6,778.08
0438	5,702.15	5,844.70	5,990.84	6,140.61	6,294.15	6,451.49	6,612.76	6,778.08	6,947.54
0439	5,844.70	5,990.84	6,140.61	6,294.15	6,451.49	6,612.76	6,778.08	6,947.54	7,121.23
0440	5,990.84	6,140.61	6,294.15	6,451.49	6,612.76	6,778.08	6,947.54	7,121.23	7,299.26
0441	6,140.61	6,294.15	6,451.49	6,612.76	6,778.08	6,947.54	7,121.23	7,299.26	7,481.74
0442	6,294.15	6,451.49	6,612.76	6,778.08	6,947.54	7,121.23	7,299.26	7,481.74	7,668.79
0443	6,451.49	6,612.76	6,778.08	6,947.54	7,121.23	7,299.26	7,481.74	7,668.79	7,860
0444	6,612.76	6,778.08	6,947.54	7,121.23	7,299.26	7,481.74	7,668.79	7,860.49	8,057
0445	6,778.08	6,947.54	7,121.23	7,299.26	7,481.74	7,668.79	7,860.49	8,057.03	8,258.43
0446	6,947.54	7,121.23	7,299.26	7,481.74	7,668.79	7,860.49	8,057.03	8,258.43	8,464.90

Exhibit 2

CITY OF MODESTO

SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08

EFFECTIVE July 24, 2007 (amended August 8, 2007)

SCHEDULE - D MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)

HOURLY									3.00%
0447	40.9266	41.9498	42.9985	44.0735	45.1753	46.3047	47.4623	48.6489	49.8651
0448	41.9498	42.9985	44.0735	45.1753	46.3047	47.4623	48.6489	49.8651	51.1117
0449	42.9985	44.0735	45.1753	46.3047	47.4623	48.6489	49.8651	51.1117	52.3895
0450	44.0735	45.1753	46.3047	47.4623	48.6489	49.8651	51.1117	52.3895	53.6992
0451	45.1753	46.3047	47.4623	48.6489	49.8651	51.1117	52.3895	53.6992	55.0417
0452	46.3047	47.4623	48.6489	49.8651	51.1117	52.3895	53.6992	55.0417	56.4177
0453	47.4623	48.6489	49.8651	51.1117	52.3895	53.6992	55.0417	56.4177	57.8281
0454	48.6489	49.8651	51.1117	52.3895	53.6992	55.0417	56.4177	57.8281	59.2738
0455	49.8651	51.1117	52.3895	53.6992	55.0417	56.4177	57.8281	59.2738	60.7556
0456	51.1117	52.3895	53.6992	55.0417	56.4177	57.8281	59.2738	60.7556	62.2745
0457	52.3895	53.6992	55.0417	56.4177	57.8281	59.2738	60.7556	62.2745	63.8314
0458	53.6992	55.0417	56.4177	57.8281	59.2738	60.7556	62.2745	63.8314	65.4272
0459	55.0417	56.4177	57.8281	59.2738	60.7556	62.2745	63.8314	65.4272	67.0629
0460	56.4177	57.8281	59.2738	60.7556	62.2745	63.8314	65.4272	67.0629	68.7395
BI-WEEKLY	1	2	3	4	5	6	7	8	9
0447	3,274.13	3,355.98	3,439.88	3,525.88	3,614.02	3,704.38	3,796.98	3,891.91	3,989.21
0448	3,355.98	3,439.88	3,525.88	3,614.02	3,704.38	3,796.98	3,891.91	3,989.21	4,088.94
0449	3,439.88	3,525.88	3,614.02	3,704.38	3,796.98	3,891.91	3,989.21	4,088.94	4,191.16
0450	3,525.88	3,614.02	3,704.38	3,796.98	3,891.91	3,989.21	4,088.94	4,191.16	4,295.94
0451	3,614.02	3,704.38	3,796.98	3,891.91	3,989.21	4,088.94	4,191.16	4,295.94	4,403.34
0452	3,704.38	3,796.98	3,891.91	3,989.21	4,088.94	4,191.16	4,295.94	4,403.34	4,513.42
0453	3,796.98	3,891.91	3,989.21	4,088.94	4,191.16	4,295.94	4,403.34	4,513.42	4,626.25
0454	3,891.91	3,989.21	4,088.94	4,191.16	4,295.94	4,403.34	4,513.42	4,626.25	4,741.90
0455	3,989.21	4,088.94	4,191.16	4,295.94	4,403.34	4,513.42	4,626.25	4,741.90	4,860.45
0456	4,088.94	4,191.16	4,295.94	4,403.34	4,513.42	4,626.25	4,741.90	4,860.45	4,981.96
0457	4,191.16	4,295.94	4,403.34	4,513.42	4,626.25	4,741.90	4,860.45	4,981.96	5,106.51
0458	4,295.94	4,403.34	4,513.42	4,626.25	4,741.90	4,860.45	4,981.96	5,106.51	5,234.18
0459	4,403.34	4,513.42	4,626.25	4,741.90	4,860.45	4,981.96	5,106.51	5,234.18	5,365.03
0460	4,513.42	4,626.25	4,741.90	4,860.45	4,981.96	5,106.51	5,234.18	5,365.03	5,499.16
MONTHLY	1	2	3	4	5	6	7	8	9
0447	7,121.23	7,299.26	7,481.74	7,668.79	7,860.49	8,057.03	8,258.43	8,464.90	8,676.53
0448	7,299.26	7,481.74	7,668.79	7,860.49	8,057.03	8,258.43	8,464.90	8,676.53	8,893.44
0449	7,481.74	7,668.79	7,860.49	8,057.03	8,258.43	8,464.90	8,676.53	8,893.44	9,115.77
0450	7,668.79	7,860.49	8,057.03	8,258.43	8,464.90	8,676.53	8,893.44	9,115.77	9,343.67
0451	7,860.49	8,057.03	8,258.43	8,464.90	8,676.53	8,893.44	9,115.77	9,343.67	9,577.26
0452	8,057.03	8,258.43	8,464.90	8,676.53	8,893.44	9,115.77	9,343.67	9,577.26	9,816.69
0453	8,258.43	8,464.90	8,676.53	8,893.44	9,115.77	9,343.67	9,577.26	9,816.69	10,062.09
0454	8,464.90	8,676.53	8,893.44	9,115.77	9,343.67	9,577.26	9,816.69	10,062.09	10,313.63
0455	8,676.53	8,893.44	9,115.77	9,343.67	9,577.26	9,816.69	10,062.09	10,313.63	10,571.48
0456	8,893.44	9,115.77	9,343.67	9,577.26	9,816.69	10,062.09	10,313.63	10,571.48	10,835.76
0457	9,115.77	9,343.67	9,577.26	9,816.69	10,062.09	10,313.63	10,571.48	10,835.76	11,106.66
0458	9,343.67	9,577.26	9,816.69	10,062.09	10,313.63	10,571.48	10,835.76	11,106.66	11,384.34
0459	9,577.26	9,816.69	10,062.09	10,313.63	10,571.48	10,835.76	11,106.66	11,384.34	11,668.94
0460	9,816.69	10,062.09	10,313.63	10,571.48	10,835.76	11,106.66	11,384.34	11,668.94	11,960.67

Exhibit 2

MCMA APPROVED ALTERNATE WORK SCHEDULES

(See Article 11, Approved Work Schedules for positions and classifications eligible to participate in these work schedules.)

NINE-EIGHTY (9-80) WORK SCHEDULE

The nine-eighty (9-80) work schedule shall consist of five (5) consecutive duty days for which the employee shall work nine (9) hours per day for four (4) days and eight (8) hours per day for one (1) day, followed by two (2) consecutive days off; followed by four (4) consecutive duty days for which the employee shall work nine (9) hours per day, followed by three (3) consecutive days off.

The employee's workweek will be changed and will no longer be 12:01 a.m. Tuesday through 12:00 a.m. (midnight) Monday. It shall be changed to midday of the employee's "extra" day off to midday of the same day the following week. The Payroll Division of Finance shall be notified of this workweek. For example:

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Off	9	9	9	9	8	Off
Off	9	9	9	9	Off	Off
Off						

The employee's workweek shall be from midday Friday to midday Friday.

An employee on a Nine-Eighty (9-80) Schedule will receive an unpaid lunch period of not less than thirty (30) minutes and not more than sixty (60) minutes.

Overtime shall be compensated in accordance with Article 14, Overtime for Non-Exempt employees.

FOUR-ELEVEN (4/11) WORK SCHEDULE

The 4/11 Schedule shall consist of four (4) consecutive duty days, for which the employee shall work eleven (11) hours per day, followed by four (4) days off.

The 4/11 Schedule requires that employees work fifty-six (56) hours per year in addition to their regular schedule. Of these fifty-six (56) hours, thirty-six (36) hours will be scheduled as four (4) nine (9)-hour training days. Each of these four (4) days will consist of nine (9) hours, excluding lunch. The remaining twenty (20) hours are owed to the City and shall be deducted from the employee's annual holiday entitlement. See Article 20, Holidays.

Employees assigned to a 4/11 Schedule will have a paid lunch break of thirty (30) minutes coupled with one (1) fifteen (15) minute paid break, for a total of forty-five (45) minutes. Employees shall remain available by phone or radio, and are subject to recall at any time

Exhibit 3

during their lunch break. In the event of a recall or missed lunch break, there will be no additional compensation.

Overtime for non-exempt employees shall be compensated in accordance with the Fair Labor Standards Act, 29 CFR Section 778.114 (Fluctuating Work Week Schedule).

MODIFIED FOUR-TEN (4/10) WORK SCHEDULE

The Modified Four-Ten (4/10) workweek shall consist of four (4) consecutive duty days for which the employee shall work ten (10) hours per day, followed by four (4) consecutive days off.

The Modified Four-Ten (4/10) Schedule requires that employees work two hundred and forty (240) hours per year in addition to their regular schedule. Of this, two-hundred and forty (240) hours, thirty-two (32) hours will be scheduled as four (4) training days. Each of these four (4) days will consist of eight (8) hours, excluding lunch. One hundred and twenty (120) hours will be worked as twelve (12) ten hour "double days" each year, to be scheduled by the supervisor and worked during the employee's normal thirty-hour (30) work week. The remaining eighty-eight (88) hours are owed to the City and shall be deducted from the employee's annual holiday entitlement. See Article 20, Holidays.

An employee on a Modified Four-Ten (4/10) Schedule will receive an unpaid lunch period of not less than thirty (30) minutes and not more than sixty (60) minutes.

Overtime for non-exempt employees shall be compensated in accordance with Article 14, Overtime For Non-Exempt Employees.

Exhibit 3

Attachment A: Definitions

The following definitions are provided for information purposes, only, and are not a negotiable part of this Implementation Document. The definitions may be drawn from various City rules, policies, administrative orders or other documents and are subject to change pursuant to the provisions of those source documents.

Advancement. A salary increase within the limits of the salary range established for the class.

Applicant. A person who has made formal application for employment.

Appointment. The offer to a person and his/her acceptance of a position.

Class or Classes of Positions. A group of positions having duties and responsibilities sufficiently similar that the same title, examples of duties, and requirements may be applied.

Classification Plan. The arrangement of positions into classes, with titles and specifications describing each class.

Continuous Service. Employment by the City, uninterrupted from the date of appointment, except by authorized absence with pay.

Demotion. A downgrade of a regular employee from one class to another class with a lower salary range imposed as a disciplinary action or as a substitution for layoff. A reduction in salary within the same class shall not be considered a demotion.

Disciplinary Probation. A form of disciplinary action, as distinguished from the usual probationary period for new employees, for a specified time not to exceed one year. Employees placed on disciplinary probation may be dismissed for failure to meet any requirement imposed as a condition to such status.

Dismissal. The separation from employment of an employee by an appointing authority for cause.

Domestic partnership is a partnership that complies with California Family Code Section 298 and is filed with the Secretary of State of the State of California.

Downgrade. A change in employment status of a regular employee from one class to another class with a lower salary range.

Eligible. A person whose name is on an appropriate eligible list and who is not ineligible for appointment for any reason.

Eligible List. A record of the name of persons who have qualified, through examination, for employment in a specific class.

Examination. A test or group of tests and evaluations used to determine eligibility and to rank candidates for employment in a class.

Exempt and non-exempt. These terms reference the employee's status pursuant to the Fair Labor Standards Act (FLSA). Exempt employees are exempt from the overtime requirements of the FLSA. (See Exhibit 1: Classifications and Salary Ranges for FLSA status.)

Grievance. A grievance is a disagreement between the CITY and an employee, group of employees, or MCMA concerning the interpretation, application, or violation of a specific Article(s) of this MOU or established written rules(s) or regulations(s), or custom(s) governing personnel practices.

Interest Based Negotiations. Interest Based Negotiations is a process that focuses on satisfying as many interests or needs as possible for all negotiators. It is a problem solving process used to reach an integrative solution rather than describing rewards in a win/lose manner.

Lay-Off. Termination of service because of lack of work, lack of funds, or in the interests of economy, without fault on the part of the employee involved.

Modesto Municipal Code. Chapter 5 of Title II of the Modesto Municipal Code plus any other provisions of the Modesto Municipal Code which deal with the City's personnel system.

Overtime. Hours actually worked in excess of forty (40) hours in a workweek. Paid leave shall be considered as time actually worked for purposes of computing overtime. Overtime shall not affect leave accruals.

Position. A combination of duties regularly assigned to be performed by one person.

Probationary Period. A working test period during which an employee appointed from an eligible list is required to demonstrate his/her fitness for the class by actual performance of the duties of his/her position.

Probationary Status. The status of an employee who has been appointed from an eligible list, but has not completed the prescribed probationary period.

Probationer. An employee who has probationary status.

Promotion. A change in employment status of a regular employee from one class to another class with a higher salary range.

Provisional Employee. An employee who is appointed without examination to a regular position in the classified service for which no eligible list exists.

Recognized Employee Organization. "Recognized Employee Organization" means an employee organization, which has been formally recognized by the City as the employee organization that represents the employees in an appropriate representation unit.

Reduction. A salary decrease within the pay range for the class.

Regular Employee. An employee who has satisfactorily completed his/her initial probationary period and has been retained in the classified service.

Regular Position. A position in the classified service which requires, or is likely to require, the services of an employee for more than six months.

Reinstatement. The reappointment without examination of an employee who has resigned in good standing.

Release. Separation of an employee from the service during or at the close of the probationary period.

Separation. Any termination of employment.

Status. The condition of an employee's present appointment, such as temporary, provisional, probationary, or regular.

Suspension. An involuntary absence without pay, imposed for disciplinary purposes, or pending investigation of charges.

Temporary Appointment. An appointment for a limited period.
Transfer. A change in employment status of a regular employee from one position to another within the same class, or a comparable class. "Comparable" means a class with similar duties and responsibilities, and the same or similar minimum qualifications, and the same salary range.

Vacancy or Vacant Position. Any unfilled position in the City service.

Amended on 11/13/07
by Reso # 2007-679
"Exhibit A"
& 2008-052

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-447

A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO EFFECTIVE JULY 24, 2007, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2007-446 APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION (MCMA) ADOPTING SALARY AND BENEFIT CHANGES FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES EFFECTIVE JULY 24, 2007.

WHEREAS, on July 24, 2007, the City Council adopted Resolution No. 2007-446 approving a Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Confidential and Management Association (MCMA) setting forth salary and benefit changes for Represented Management and Confidential Non-Sworn Classes effective July 24, 2007, and

WHEREAS, Council desires to establish a Class Range Table for said classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Class Range Table for Represented Management and Confidential Non-Sworn Classes, entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective July 24, 2007" which is attached hereto as **Exhibit "A"** and made a part hereof as though set forth in full herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Flores, Asst
SUSANA ALCALA WOOD, City Attorney

AMENDED

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective July 24, 2007

RANGE	TITLE
403	
407	Administrative Clerk II (Confidential) Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Administrative Technician (Confidential)
414	
415	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential) Workers' Compensation Claims Assistant
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

RANGE	TITLE
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor Parking Services Supervisor
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Supervising Animal Control Officer Police Civilian Supervisor Stores Manager Systems Technician III
427	Assistant City Clerk/Auditor Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Senior Crime Analyst Software Analyst I
431	Administrative Analyst II Assistant Risk Manager Budget Analyst I Personnel Analyst Recycling Program Coordinator

RANGE	TITLE
432	Communications Specialist
	Compost Facility Supervisor
	Customer Services Supervisor
	Junior Civil Engineer
	Junior Traffic Engineer
	Neighborhood Preservation Supervisor
	Operations and Maintenance Supervisor
	Recreation Supervisor II
	Senior Accountant
	Water Quality Control Maintenance Supervisor
433	Organizational Development Specialist
434	Budget Analyst II
	Environmental Laboratory Supervisor
	Operations Supervisor
	Regulatory Compliance Supervisor
	SCADA Supervisor
	Senior Community Development Program Specialist
	Senior Housing Rehabilitation Specialist
	Software Analyst II
	Supervising Accountant
	Systems Engineer I
435	Business Analyst
	Cultural Services Manager
	Emergency Medical Services Coordinator
	Integrated Waste Specialist
	Management Analyst
	Senior Personnel Analyst
	Weed and Seed Program Coordinator
436	Assistant Civil Engineer
	Assistant Traffic Engineer
	Electrical Supervisor
	Senior Planner
437	

RANGE	TITLE
438	Budget Officer
	Events Supervisor
	Housing Program Supervisor
	Land Surveyor
	Property Agent
	Public Safety Business Services Analyst
	Senior Business Analyst
	Software Analyst III
	Systems Engineer II
439	Administrative Services Officer
	Community Facilities Districts Administrative Officer
440	Transportation Planner
	Water Quality Control Operations Supervisor
441	Airport Manager
	Building Maintenance Superintendent
	Fleet Manager
	Housing and Urban Development Manager
	Parks Operations Superintendent
	Parks Planning and Development Manager
	Purchasing Manager
	Recreation Program Manager
	Streets Superintendent
	Urban Forestry Superintendent
	Wastewater Collections Superintendent
442	Customer Services Division Manager
	Manager of Budget and Financial Analysis
	Software Analyst IV
	Supervising Construction Inspector
	Systems Engineer III
443	Associate Civil Engineer
	Associate Traffic Engineer

RANGE	TITLE
444	Principal Planner Solid Waste Program Manager Supervising Building Inspector Transit Manager
445	Accounting Division Manager
446	Deputy Chief Building Official Information Technology Unit Manager Wastewater Treatment Plant Manager
447	Business Development Division Manager Planning Division Manager Water Superintendent
448	
449	
450	Chief Building Official Senior Civil Engineer Traffic Engineer
451	
452	
453	
455	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-448

A RESOLUTION AMENDING THE FISCAL YEAR 07-08 OPERATING BUDGET TO TRANSFER $302,548 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, AND $287,430 FROM OTHER FUND RESERVES, TO VARIOUS SALARY AND BENEFIT ACCOUNTS TO PROVIDE FUNDING FOR THE NEGOTIATED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION EFFECTIVE JULY 24, 2007

WHEREAS, the City Council desires to authorize salary and benefit changes as part of the negotiated Memorandum of Understanding between the City of Modesto and the Modesto Confidential and Management Association, effective July 24, 2007, and

WHEREAS, the FY 07-08 costs associated with these changes are estimated at $601,978, effective July 24, 2007, and

WHEREAS, $589,978 of these increased expenditures have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2007-08 Operating Budget is hereby amended to transfer $302,548 from 0100-800-8000-8003, the General Fund Reserve, and $287,430 from other Fund reserves to various salary and benefit accounts, to fund said salary and benefit changes negotiated as part of the Memorandum of Understanding between the City of Modesto and the Modesto Confidential and Management Association.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Flowers, Asst
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-449

A RESOLUTION AUTHORIZING THE RISK MANAGER TO BIND EXCESS WORKERS' COMPENSATION INSURANCE

WHEREAS, the City of Modesto has participated in the workers' compensation excess insurance pool, California Public Employers Insurance Authority (CPEIA), since July 1, 2002, and

WHEREAS, the City's excess workers' compensation insurance renews on July 1, 2007, and

WHEREAS, staff has received the invoice that reflects the 2007/2008 rate, and

WHEREAS, upon authorization from Council, staff will bind Insurance coverage through the City's broker at $750,000 self-insured retention, and

WHEREAS, the anticipated cost of said insurance coverage is $178,576

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Risk Manager is hereby authorized to bind excess workers' compensation insurance coverage in the amount of $178,576 as presented by the City's Broker of Record.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 24th day of July 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(Seal)

APPROVED AS TO FORM

By: R. Steven Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-450

A RESOLUTION AUTHORIZING THE RISK MANAGER TO BIND PROPERTY INSURANCE FOR THE CITY OF MODESTO OWNED AND/OR OPERATED PROPERTIES

WHEREAS, Alliant Insurance Services has developed a joint-purchasing group of clients called PEPIP (Public Entity Property Insurance Program) which includes over 6000 public entities in 37 different states, with over $200,000,000,000 in covered values, and

WHEREAS, PEPIP's loss experience, coverage form and pricing have been among the most competitive in the industry, and

WHEREAS, renewal of said insurance is due on July 1, 2007, and

WHEREAS, staff has received the invoice that reflects a 6% rate increase for property and boiler & machinery coverage due to several recent claims, and increased property value, and

WHEREAS, based upon authorization from Council, staff will bind the insurance coverage through PEPIP, at the cost of $295,529,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Risk Manager is hereby authorized to bind property and boiler & machinery insurance coverage in the amount of $295,529 as presented by the City's Broker of Record pursuant to Council direction.

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 24th day of July, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(Seal)

APPROVED AS TO FORM

By: R. Flores, Asst.
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-451

A RESOLUTION APPROVING THE AGREEMENTS BETWEEN THE CITY OF MODESTO, KAISER PERMANENTE, BLUE SHIELD, AMERICAN SPECIALTY HEALTH PLANS (chiropractic coverage) AND PACIFICARE BEHAVIORAL HEALTH; CONTINUING DENTAL AND VISION COVERAGE THROUGH THE CITY'S SELF-INSURED PROGRAMS AND AUTHORIZING THE RISK MANAGER TO SERVE AS THE COORDINATOR FOR THE VARIOUS PLANS AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS

WHEREAS, the City of Modesto provides its employees with employee and dependent health insurance coverage, and

WHEREAS, the Employee Benefits Committee (EBC) has met and reviewed and evaluated coverage for Fiscal Year 2007/2008, and

WHEREAS, the rates charged by the health insurance carriers will increase by 9% for Kaiser and 15.6% for Blue Shield, and

WHEREAS, mental health rates will increase by 9%, and

WHEREAS, the City's self-insured vision rates will increase by 14%, the City's self-insured dental rates by 6%, the chiropractic rates will remain the same, and

WHEREAS, the EBC voted to continue to offer two providers, Blue Shield and Kaiser, and

WHEREAS, Blue Shield will offer a Preferred Provider Option (PPO) to all employees, and a standard HMO option and,

WHEREAS, the EBC recommended changing the health plan design by increasing the co-pays,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves execution of agreements with Kaiser Permanente, Blue Shield, American Specialty Health Plans, and PacifiCare Behavioral Health.

BE IT FURTHER RESOLVED that the Council hereby approves the continuation of dental and vision coverage through the City's self-insured programs as recommended by the Employee Benefits Committee.

BE IT FURTHER RESOLVED that the Risk Manager is hereby authorized to serve as the coordinator for the various plans.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary agreements relating to employee and dependent health care as set forth herein.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Steven Mott
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED
JUL 13 2010
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2010-308

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-452

A RESOLUTION ESTABLISHING ANGLE PARKING IN THE CITY OF MODESTO AND RESCINDING RESOLUTION NO. 2006-562

WHEREAS, Article 10 of Chapter 2 of Title 3 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish angle parking in the City of Modesto, and

WHEREAS, City staff received a request from Catherine Cardoza Conner of Cardoza Family Partnership L. P., to install angle parking on the east side of 13th Street between F and G Streets to create additional on-street parking, and

WHEREAS, staff evaluated the traffic volumes and the speeds for this section of roadway and concluded that angle parking can be accommodated on the east side of 13th Street, between F and G Streets without creating a hazard and without impeding traffic flow,

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

SECTION 1. ANGLE PARKING. Angle parking in the City of Modesto is hereby established at the following locations:

- Portions of 10th Street, between I & K Streets (west side) (diagonal)
- 18th Street, between G and H Streets (west side) (diagonal)
- F Street, between 10th and 11th Streets (south side) (diagonal)
- I Street, between 9th and 12th Streets (both sides) (diagonal)
- P Street, between 9th and Needham Streets (both sides) (diagonal)
- Coldwell Avenue, between Tully Road and College Avenue
- 4th Street, between E Street and G Street (west side)

RESCINDED

- 16th Street, between I Street and J Street (east side)
- Elm Street, between Jefferson and Washington Streets (diagonal)
- Jefferson Street, between 8th and Laurel Streets (diagonal)
- 13th Street, between H and L Streets (east side)
- J Street, between 7th Street and 8th Street (north side)
- 10th Street, between G Street and F Street (east side) (diagonal)
- F Street, between 10th Street and 11th Street (north side) (diagonal)
- 15th Street, between K Street and H Street (east side) (diagonal)
- F Street, between 9th Street and 10th Street (north side) (diagonal)
- 8th Street, between J Street and K Street (east side) (diagonal)
- 8th Street, between K Street and L Street (east side) (diagonal)
- Sierra Drive between F Street and 4th Street (north side)
- 8th Street between L Street and Jefferson Street (east side) (diagonal)
- M Street between 7th Street and 8th Street (south side) (diagonal)
- 10th Street between G Street and I Street (east side) (diagonal)
- Sierra Drive between 6th Street and the alley at the west property edge of New Bethany Missionary Baptist Church (diagonal)
- Sierra Drive between 5th Street and 6th Street (north side) (diagonal)
- 6th Street, Sierra Drive to north property line of New Bethany Missionary Baptist Church (west side) (diagonal)
- 13th Street between F and G Streets (east side) (diagonal)

SECTION 2. The Public Works Director is hereby directed to implement the provisions of this resolution.

SECTION 3. Resolution No. 2006-562 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July 2007, by Councilmember Hawn , who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Flores, Asst
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-453

A RESOLUTION ACCEPTING THE WORK BY GRANITE CONSTRUCTION COMPANY FOR THE PROJECT TITLED "TRENCH DRAIN INSTALLATION AT GENERAL AVIATION T-HANGARS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $203,273.16

WHEREAS, a report has been filed by the Public Works Director that the project titled "Trench Drain Installation at General Aviation T-Hangers" has been completed by Granite Construction Company, in accordance with the contract agreement dated February 27, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Trench Drain Installation at General Aviation T-Hangers" is hereby accepted as complete from said contractor, Granite Construction Company, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $203,273.16, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By R. Stevens, Asst.
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-454

Print

A RESOLUTION ACCEPTING THE WORK BY VALLEY SLURRY SEAL COMPANY, FOR THE PROJECT TITLED "SLURRY SEAL INSTALLATION AT GENERAL AVIATION T-HANGARS PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENTS OF AMOUNTS TOTALING $60,850.00

WHEREAS, a report has been filed by the Public Works Director that the project titled "Slurry Seal Installation at General Aviation T-Hangers" has been completed by Valley Slurry Seal Company, in accordance with the contract agreement dated February 27, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Slurry Seal Installation at General Aviation T-Hangers" is hereby accepted as complete from said contractor, Valley Slurry Seal Company, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $60,850.00, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-455

A RESOLUTION APPROVING A PROFESSIONAL SERVICES. AGREEMENT WITH BOB MURRAY AND ASSOCIATES TO CONDUCT A RECRUITMENT FOR THE POSITION OF DEPUTY DIRECTOR OF PUBLIC WORKS - OPERATIONS (WASTEWATER), IN AN AMOUNT NOT TO EXCEED $25,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, the Deputy Director-Operations at the Wastewater Treatment Plant is vacant due to a resignation, and

WHEREAS, this position is considered difficult to fill because of the combination of experience and education required, and

WHEREAS, possession of a valid Grade V Wastewater Treatment Plant Operator Certificate is desirable and the available pool of candidates is limited due to this requirement, and

WHEREAS, a Request for Proposal was sent to nine (9) professional firms and two qualified proposals were received, and

WHEREAS, staff has selected the Sacramento-based firm of Bob Murray and Associates for recruitment services for the Deputy Director – Operations position, and

WHEREAS, funds are budget within the Wastewater Fund in Account Number 6210-480-5209-0235 for this recruitment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Professional Services Agreement with Bob Murray and Associates to conduct a recruitment for the position of Deputy Director of Public Works – Operations (Wastewater) in an amount not to exceed $25,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: R. Flowers, Asst
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-456

A RESOLUTION APPROVING THE SCENIC LIFT STATION PRELIMINARY DESIGN REPORT DATED JUNE 2007 AS COMPLETE

WHEREAS, on September 3, 2003, by Resolution No. 2003-521, the Council approved an Agreement with Stantec Consulting, Inc., to complete the design for the rehabilitation of the Scenic Lift Station, and

WHEREAS, on September 26, 2006, as a result of Council adopting Resolution No. 2006-624, changing the procedures that Public Works uses for projects of more than one million dollars, Stantec Consulting, Inc., was directed to change the scope of work to develop a 35% design effort and a Preliminary Design Report (PDR) for the Scenic Lift Station, and

WHEREAS, the PDR includes the Scenic Lift Station design criteria, design approach, hydraulic calculations, and preliminary equipment selections along with probable costs for the project, and is a key source document for the final project design of the project, and

WHEREAS, Stantec Consulting, Inc., has completed the Scenic Lift Station Preliminary Design Report,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Scenic Lift Station Preliminary Design Report as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By R. Steven Boat
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-457

A RESOLUTION APPROVING THE EL RIO SEWER REPLACEMENT PROJECT PRELIMINARY DESIGN REPORT DATED JULY 2007 AS COMPLETE

WHEREAS, on December 7, 2004, by Resolution No. 2004-644, the Council approved an Amendment to an Agreement with HDR Engineering to complete the design for the El Rio Sewer Replacement Project, and

WHEREAS, on September 26, 2006, as a result of Council adopting Resolution No. 2006-624, changing the procedures that Public Works uses for projects of more than one million dollars, HDR Engineering was directed to change the scope of work to develop a 35% design effort and a Preliminary Design Report (PDR) for the El Rio Sewer Replacement Project, and

WHEREAS, the PDR includes the evaluation of three design options for replacement of the El Rio sewer line and also discusses the implications of the "Do Nothing" alternative, and

WHEREAS, HDR Engineering has completed the El Rio Sewer Replacement Project Preliminary Design Report, and

WHEREAS, the preferred option is to install new sewer laterals and a new sewer main in El Rio Avenue by microtunneling to minimize disruption and intrusion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the El Rio Sewer Replacement Project Preliminary Design Report dated July 2007 as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By R. Rivera asst.
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-458

A RESOLUTION REJECTING THE FOUR (4) BIDS FOR THE PROJECT TITLED "PAMELA MONTEROSSO PARK" AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE

WHEREAS, the four bids received for the "Pamela Monterosso Park" project were opened at 11:00 a.m. on June 5, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the four bids received for the "Pamela Monterosso Park" project were 15.67%, 26.68%, 65.79%, and 69.27% above the consultant's estimate, and

WHEREAS, all bids for the project exceeded the consultant's estimate by an excessive amount, and

WHEREAS, during the bid evaluation process staff determined that the four bids unreasonably exceeded the consultant's estimate. Therefore, staff recommends the bids be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the four bids received for the "Pamela Monterosso Park" project opened in the office of the City Clerk on June 5, 2007, are hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By R. Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-459

A RESOLUTION APPROVING A NEW NORTH CERES SEWER SERVICE AREA AGREEMENT WITH THE CITY OF CERES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NEW AGREEMENT

WHEREAS, on December 18, 1979, by Resolution 79-1301, the City of Modesto (Modesto) and City of Ceres (Ceres) executed the North Ceres Sewer Service Area Agreement (existing Agreement), and

WHEREAS, pursuant to the terms of this existing Agreement, Modesto agreed to accept and treat sewage collected from the designated North Ceres Sewer Service Area (NCSSA), and

WHEREAS, Ceres agreed to pay sewer service charges to Modesto for all properties within the NCSSA at Modesto's rate for industrial uses, and

WHEREAS, the existing Agreement included a provision requiring Ceres to collect and pay to Modesto a "sewer bond redemption charge" (connection fee, now termed "capacity charge") for all residential units and mobile homes or mobile home spaces in a mobile home park connected to the system, and

WHEREAS, Ceres also agreed to collect and pay to Modesto a similar connection fee for each acre of commercial property connected to the system, and

WHEREAS, Modesto transferred to Ceres all rights, title, and interest to the sewer collection system in the area and Ceres is obligated to maintain the system, and

WHEREAS, Ceres also paid for the construction of a sewage volume monitoring station (station) on Hosmer Road to measure wastewater flow to Modesto's wastewater treatment facility, with Modesto obligated to maintain the station, and

WHEREAS, the station has not functioned properly for years due to pipeline and flume issues and flows have been estimated, with sample tests of Biochemical Oxygen Demand (BOD)

and Total Suspended Solids (TSS) taken periodically by Modesto to determine the monthly industrial rate charges to Ceres, and

WHEREAS, billing Ceres using the same methodology and basis used to bill customers in the Modesto system would be easier and more accurate than calculating bills based on flow estimates, and

WHEREAS, Modesto commenced proceedings under Proposition 218 to increase its sewer service rates, and

WHEREAS, the proposed rate increases are scheduled to be considered for approval by the Modesto City Council under a separate action on July 24, 2007, with an effective date of August 1, 2007, and

WHEREAS, the proposed rate increase created Proposition 218 procedural issues for Ceres, as Ceres is required to comply with Proposition 218 requirements to pass on the rate increases to its customers within the NCSSA, which cannot be completed prior to the proposed effective date of Modesto's rate increase (August 1, 2007), and

WHEREAS, it is necessary to amend the existing Agreement to address the issues related to monitoring and calculating charges and to provide consistency with the method used for charging other users in Modesto's wastewater system, and

WHEREAS, the following summarizes the significant provisions of the New NCSSA Agreement:

1. **Area affected by the New Agreement** – northeast portion of the existing agreement has been eliminated and an area in southwest portion has been added as shown in Exhibit A attached
2. **Charges to Ceres for Wastewater Treatment** – charges will be based on type of use conducted on each parcel at the same rates charged for the same classification of use charged within Modesto. Ceres will compute charges monthly and make payment to Modesto, and will advise Modesto if additional parcels are added and will add to monthly billing amount,
3. **Effective Date/Implementation Date** – Agreement will not be implemented for 120 Days after approval by Modesto and Ceres City Councils to allow Ceres time to complete any Proposition 218 procedures necessary. During the

period of delay, Ceres will continue to pay at the old industrial rate and method of computation per the existing Agreement

4. **Collection of Sewer Capacity Fees for Each Parcel** – new sewer capacity charges are to be paid after the implementation date of the new Agreement. These fees are not subject to Proposition 218 procedures.
5. **Term of Agreement** – continues indefinitely unless terminated or modified by the mutual agreement of the parties.
6. **Sanitary Sewer Overflows** – each City responsible for reporting sanitary sewer overflows within their respective sewer systems.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the new North Ceres Sewer Service Area Agreement with the City of Ceres.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: R. Steven Ascalá
SUSANA ALCALA WOOD, City Attorney

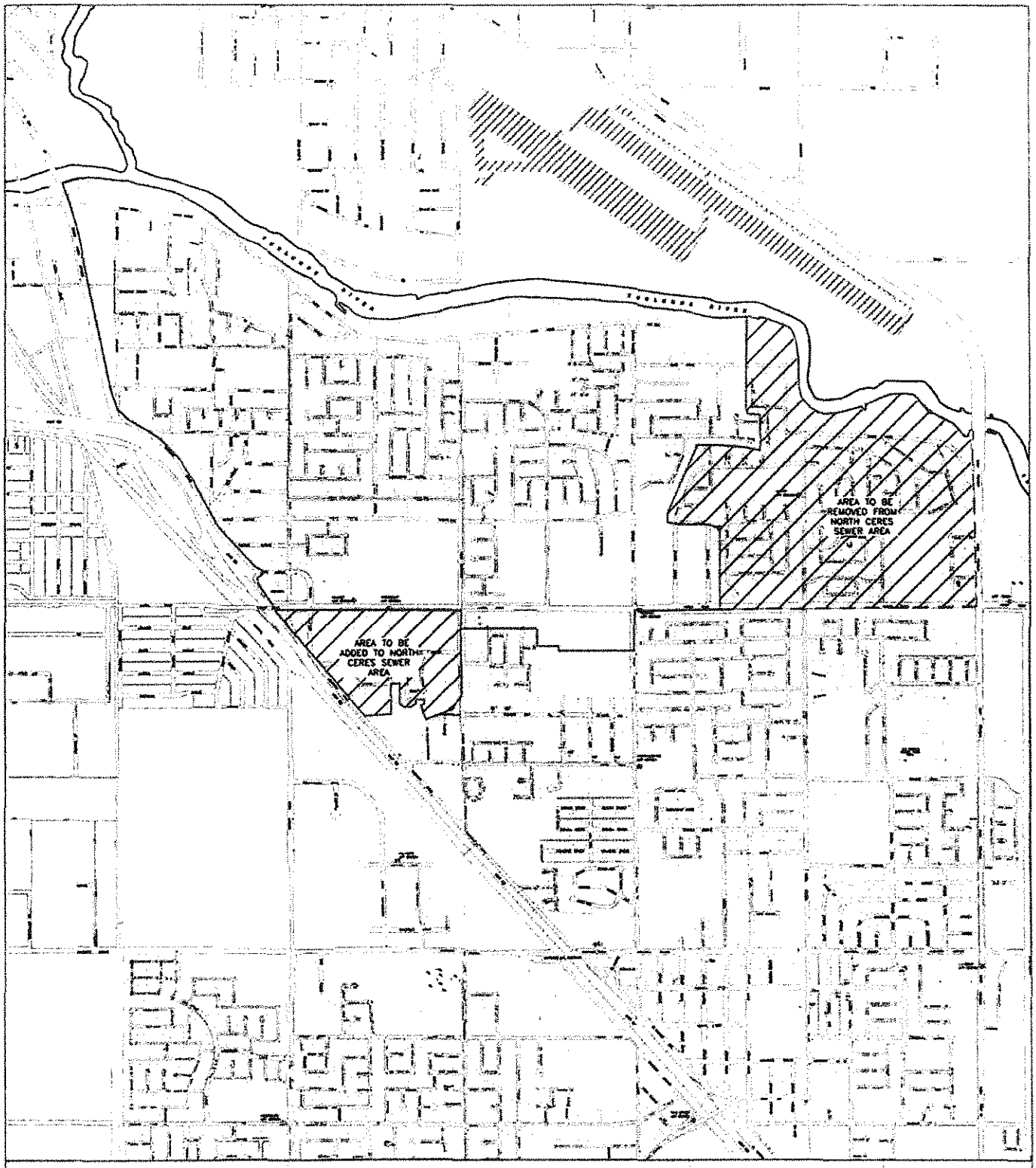


EXHIBIT "A"
NORTH CERES SEWER AREA

NO.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-460

A RESOLUTION APPROVING THE WASTE DISCHARGE REQUIREMENTS (WDR) GAP ANALYSIS PREPARED BY HDR ENGINEERING AS THE CITY OF MODESTO'S SANITARY SEWER MANAGEMENT PLAN (SSMP) AND SCHEDULE AS REQUIRED BY THE STATE WATER RESOURCES CONTROL BOARD.

WHEREAS, on May 2, 2006, the State Water Resources Control Board initiated Order No. 2006-0003-DWQ, which is the Statewide General Waste Discharge Requirements (WDR) for Sanitary Sewer Systems, and

WHEREAS, this order identifies milestones that the City of Modesto has to meet and the City must identify a plan and schedule to meet these goals by August 2, 2007, and

WHEREAS, the order requires that the WDR-SSMP and Schedule be approved by the City Council and then posted on the Regional Board's website, and

WHEREAS, the new WDR identifies specific milestone for Goals, Organization, Legal Authority, Operations and Maintenance Program, Design and Performance Provisions, Overflow Emergency Response Plan, Fats, Oil and Grease (FOG) Control Program, System Evaluation and Capacity Assurance Plan (SECAP), Monitoring, Management and Plan Modifications, SSMP Program Audits and Communication Program, and

WHEREAS, the Gap Analysis prepared by HDR Engineering Inc. identifies the City of Modesto's implementation plan and schedule and serves as the City's SSMP and Schedule as required by the Regional Board, and

WHEREAS, approval by City Council will ensure compliance with the August 2, 2007 deadline by the Regional Board,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the WDR Gap Analysis prepared by HDR Engineering as the City of Modesto's Sanitary Sewer Management Plan (SSMP) and Schedule as required by the State Water Resources Control Board.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-461

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION A MEASURE SEEKING AN ADVISORY VOTE ON THE QUESTION OF WHETHER THE CITY OF MODESTO SHOULD CHANGE ITS SYSTEM OF ELECTING CITY COUNCILMEMBERS.

BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Pursuant to Article 11 of Section 3 of the California Constitution and Section 9255(a)(2) of the California Elections Code, and California Government Code Section 34458, the Council of the City of Modesto proposes to and does hereby, on its own motion, submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November 6, 2007, a measure seeking an advisory vote on the question of whether the City of Modesto should change its system of electing City Councilmembers.

SECTION 2. That a measure is to appear on the ballot as follows:

Advisory Vote Only.	YES	
1. Should Modesto change its system of electing City Councilmembers?	NO	
Please answer the next question, whether you voted "Yes" or "No" on this question 1.		

Advisory Vote Only. **2. If the City of Modesto were to change its system of electing City Councilmembers, which of the following systems would you prefer? The Mayor would remain elected by all voters in the City under either option. (Choose only one)**	
2a. "By District": Six Districts where candidates must live in the District they wish to represent and the voters who live in the District vote on who will represent that District.	G
2b. "Mixed": Two At-Large Council seats, where candidates may live anywhere in the City and are voted on by all City voters; and Six Districts where candidates must live in the District they wish to represent, and the voters who live in the District vote on who will represent that District.	G

SECTION 3. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Stanislaus.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

R. Susana, asst.
By
SUSANA ALCALA WOOD, City Attorney

Jean Morris Attachment to 2007-461

From: Susana Wood
Sent: Friday, August 03, 2007 6:09 PM
To: Jean Morris
Cc: COUNCIL; George Britton
Subject: Technical amendments to Advisory Ballot Measure
Sensitivity: Confidential
Attachments: Technical amendments to Advisory Ballot Language.doc

Jean,

Because the County Registrar has split the advisory measure into different measures, technical amendments to the question are necessary to refer to the questions as "Measures" instead of "questions". I have made those technical amendments, which are attached hereto. Please transmit this technical amendment to the Registrar's office. No action is needed by the Council, and this will not change the argument dates as published. I have confirmed with County Counsel that this is the process to follow.

Susana Wood

Technical Amendments

Measure I

Advisory Vote Only. **Should Modesto change its system of electing City Councilmembers?** **Please answer the next measure, whether you voted "Yes" or "No" on this measure.**	YES	G
	NO	G

Measure J

Advisory Vote Only. **If the City of Modesto were to change its system of electing City Councilmembers, which of the following systems would you prefer? The Mayor would remain elected by all voters in the City under either option. (Choose only one)**	
a. "By District": Six Districts where candidates must live in the District they wish to represent and the voters who live in the District vote on who will represent that District.	G
b. "Mixed": Two At-Large Council seats, where candidates may live anywhere in the City and are voted on by all City voters; and Six Districts where candidates must live in the District they wish to represent, and the voters who live in the District vote on who will represent that District.	G

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-462

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE MEASURE SEEKING AN ADVISORY VOTE ON THE QUESTION OF WHETHER THE CITY OF MODESTO SHOULD CHANGE ITS SYSTEM OF ELECTING CITY COUNCILMEMBERS TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE.

WHEREAS, the Modesto City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 6, 2007, a measure seeking an advisory vote on the question of whether the City of Modesto should change its system of electing City Councilmembers.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk of the City of Modesto is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By R. Flores, Asst.
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED
MAY 25 2010
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION 2010-332

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-463

A RESOLUTION RECINDING ALL PREVIOUS SEWER FEES RESOLUTIONS AND ESTABLISHING FEES FOR THE PROVISION OF SEWER SERVICE

WHEREAS, Section 11-6.09 of the Modesto Municipal Code authorizes the Council to establish sewer service charges from time to time by resolution, and

WHEREAS, the Council has previously established sewer service charges, and

WHEREAS, Proposition 218 was passed in November of 1996 and became effective with respect to sewer rates on July 1, 1997, and

WHEREAS, on July 24, 2007, the Council held a public hearing pursuant to Proposition 218 with respect to adjustment of sewer rates, and

WHEREAS, notices of a sewer rate adjustment and public hearing were mailed on June 8, 2007 to sewer customers as shown in **Exhibit "A"** attached hereto and incorporated herein by reference, and

WHEREAS, insufficient protests were made to defeat imposition of the sewer rate adjustments resulting in increases in some cases, therefore the rates in the notice are hereby imposed as set forth more specifically below,

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

SECTION 1. DEFINITIONS. Unless the context requires a different meaning, for the purposes of this resolution the definitions set forth in Section 5-6.103 of Chapter 6 of Title 5 of the Modesto Municipal Code entitled "DEFINITIONS" shall apply.

1. Director: The City officer or designee in charge of utilities.

2. Monthly account charge: A monthly fee charged to every sewer account to pay the actual fixed sewer system costs not allocable to sewer flow and strength components.

3. Person. Any individual, partnership, corporation or other legal entity whatsoever applying for or receiving City sewer service.

SECTION 2. SEWER SERVICE CHARGES FOR RESIDENTIAL SERVICE. Each person receiving residential sewer service shall pay a sewer service charge to the City in accordance with the following rates:

(a) The maximum monthly sewer service charges for dwelling units, mobile homes and mobile home spaces in mobile home parks shall be as follows:

	Year 1	Year 2	Year 3	Year 4	Year 5
Maximum Residential Rates	1-Aug-07	1-Jul-08	1-Jul-09	1-Jul-10	1-Jul-11
Monthly Account Charge ($/Account)	$2.57	$3.71	$4.26	$4.53	$4.74
plus Dwelling Unit Charge ($/Dwelling Unit)					
Single Family Residential, Mobile Home on a lot	$15.97	$23.17	$26.65	$29.48	$30.98
Multiple Family (2-4 Dwelling Units), one additional Dwelling Unit or Mobile Home on a lot	$13.71	$19.89	$22.89	$25.31	$26.60
Apartments (5 or more Dwelling Units), Mobile Home Space in a Mobile Home Park	$10.41	$15.10	$17.37	$19.21	$20.19

SECTION 3. SEWER SERVICE CHARGES FOR COMMERCIAL SERVICE. Each person receiving commercial sewer service shall pay a maximum sewer service charge to the City in accordance with the following rates:

(a) Commercial users shall be grouped according to Biochemical Oxygen Demand (hereinafter referred to as BOD) and Total Suspended Solids (hereinafter referred to as TSS) strength characteristics and shall pay sewer service charges based on the quantity of water used, and the waste strength

by the City Council in a reasonable amount of time in advance of the new sewer rate becoming effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of July, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA A. WOOD, City Attorney

characteristics measured in milligrams per liter (hereinafter referred to as mg/l). The Director shall determine the waste strength characteristics of commercial users and assign them to one of the following commercial users groups:

Maximum Commercial Rates	Year 1 1-Aug-07	Year 2 1-Jul-08	Year 3 1-Jul-09	Year 4 1-Jul-10	Year 5 1-Jul-11
Monthly Account Charge ($/Account)	$2.57	$3.71	$4.26	$4.53	$4.74
plus Quantity Charge ($/100 cubic feet)					
Group 1-BOD + TSS is 400 mg/l or less	$1.35	$1.97	$2.26	$2.50	$2.63
Group 2-BOD + TSS is 401 mg/l to 900 mg/l	$1.67	$2.42	$2.78	$3.11	$3.27
Group 3-BOD + TSS is 901 mg/l to 1,400 mg/l	$1.98	$2.87	$3.31	$3.73	$3.91
Group 4-BOD + TSS is 1,401 mg/l or more	$2.36	$3.42	$3.94	$4.46	$4.69

(b) Commercial users shall have all water used on the premises metered in order to determine the users' sewer service charges.

(1) Commercial users on a public water system other than the City's shall obtain a metered water service from the water purveyor and shall pay the sewer service charge which would be made were such water from the City's water system.

(2) Commercial users receiving any water from a private source shall allow the City to furnish, install and maintain a water meter with the user paying for the cost of the meter and installation. The user shall pay the sewer service charge which would be made were such water from the City's water system. Authorization shall be granted to City from user to install, read and maintain said meter by user executing an agreement on a form furnished by the Director.

(c) In the case of existing meters which are under the ownership of users, the City will assume responsibility for maintenance of such meters upon:

(1) Receipt of transfer of title from the owner in a form satisfactory to the Director, and

(2) Authorization being granted to City for reading and maintaining the meter as set forth in paragraph (b) above.

(d) Schools, churches, assembly halls and similar facilities shall be considered Group 1.

SECTION 4. SEWER SERVICE CHARGES FOR INDUSTRIAL SERVICE.

Each person receiving industrial sewer service shall pay a maximum sewer service charge to the City in accordance with the following rates:

(a) The monthly sewer service charges for industrial users shall be at the following rate of per million gallons of total flow.

Maximum Industrial (Major and Minor) Rates	Year 1 1-Aug-07	Year 2 1-Jul-08	Year 3 1-Jul-09	Year 4 1-Jul-10	Year 5 1-Jul-11
Monthly Account Charge ($/Account)	$2.57	$3.71	$4.26	$4.53	$4.74
plus Quantity Charges (these three components are additive)					
Flow Charge ($/Million gallons)	$1,475.66	$2,139.32	$2,460.12	$2,687.91	$2,822.83
BOD Charge ($/1,000 lbs)	$72.98	$106.21	$122.61	$144.69	$152.53
TSS Charge ($/1,000 lbs)	$127.82	$185.75	$214.11	$247.48	$260.51

(1) If the Industry has an effluent meter for industrial flow measurement and a sanitary sewage meter, the total flow shall be the sum of the metered flows.

Sanitary Sewage Flow: If Industry has an unmetered connection for disposal of sanitary sewage, the estimated volume may be established by the Director. The estimated volume shall be based on the number and type of plumbing fixture units contributing to the system along with any other flow information available which indicates the total volume of sanitary sewage.

(2) In the absence of an effluent meter, an influent meter shall be used, and total flow shall be based upon the influent meter reading.

(3) The BOD and TSS charges for industrial and sanitary discharges shall be based on the measured or estimated BOD and TSS for each type of flow.

SECTION 5. FLOW ESTIMATES. The Director will estimate flow where he/she determines metered flow measurements are unreliable.

SECTION 6. SEWER SERVICE CHARGES FOR DUMPING OF SEPTIC WASTE AT THE SEWAGE TREATMENT PLANT

Charge	Year 1 1-Aug-07	Year 2 1-Jul-08	Year 3 1-Jul-09	Year 4 1-Jul-10	Year 5 1-Jul-11
Flow charge per 1,000 gallons	$38.94	$55.68	$63.93	$73.59	$77.44

SECTION 7. INFLATOR INDEX AND REASSESSMENT OF COST OF SERVICE The cost of service set forth above shall be re-examined not less than every four years by professionals competent in the field. Such professionals shall provide a report to the City updating both the fixed and volume based costs as appropriate and as recommended to the Council by the Director and Finance Director. Beginning on July 1, 2012 and annually thereafter, the Finance Director with the concurrence of the Director, shall have the authority to adjust the above rates by an amount not to exceed the not-seasonally-adjusted annual percentage increase in the April Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers for the San Francisco CMSA that is currently prepared by the Department of Finance.

SECTION 8. SULFIDE CORROSION CHARGES. Any wastewater discharge which exceeds 0.5 parts per million of sulfides shall pay a sulfide corrosion charge, an impact fee, determined on a case-by-case basis as follows:

(a) The projected accelerated corrosion of collection system pipes and pump stations will be calculated based on the EPA Pomeroy Model for Sulfide Corrosion (EPA Design Manual, EPA/625/1-85-018, Section 2.5.2.1 - Corrosion Predictive Model).

(b) The sulfide corrosion charge will then be calculated based on the actual pipes and pump stations, up to the Water Quality Control Plant

Headworks, impacted by the discharge, and on the current estimates of replacement costs and the time value of money.

(c) Discharges of sulfide above 0.5 ppm shall also not have a pH lower than 7.

(d) The discharger may request that the sulfide charge be recalculated each year, if the amount of sulfide discharged is documented as having changed significantly from the previous year. The discharger may elect to receive the billing for this service charge on an annual or monthly basis. No prepayment discount will apply.

(e) This service charge is an impact fee based on sulfide crown corrosion of collection system pipes and pumping facilities. It is not intended to compensate the City for increased corrosion or odor generation in the Water Quality Control Plant. It is not intended to liquidate the responsibility of a party whose wastewater discharge escapes from the collection system causing soil or groundwater contamination. Discharge of concentrated sulfides under the provisions of this section constitutes acceptance of these terms.

SECTION 9. SEWAGE TREATMENT FOR OUTSIDE PUBLIC AGENCIES. Pursuant to agreements approved from time to time by the City Council and the City Attorney (as to form), other public agencies will own and operate, and the City of Modesto will accept and treat sewage collected from, sewer systems external to the City and City's Sewer District No. 1.

SECTION 10. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after August 1, 2007.

SECTION 11. RESCINDING PRIOR RESOLUTIONS. All previous sewer fees resolutions are hereby rescinded effective August 1, 2007.

Section 12. ANNUAL REVIEW OF ADOPTED RATE INCREASES. The City Council, for fiscal years beginning after June 30, 2008, shall conduct a review of each adopted sewer rate increase prior to its implementation. Said review shall be acted upon

City of Modesto
City Clerk
P.O. Box 642
1010 Tenth Street, Suite 6600
Modesto, CA 95353

NOTICE OF
PROPOSED SEWER RATE INCREASE
and of
PUBLIC HEARING

↓ *window of #10 envelope*

<<Owner Name1>>
<<Address1>>
<<Address2>>
<<Address3>>
<<Address4>>

THE CITY OF MODESTO GIVES NOTICE that:

1. The City is proposing to increase sewer rates. The purpose of the proposed increase is to the fund operation, maintenance and replacement costs related to providing sewer service to properties within the Modesto Sewer Service Area. The improvements are necessary to maintain, operate, rehabilitate, upgrade and replace existing sewer distribution and treatment facilities as well as all related administrative and incidental costs, including the costs of the hearing shown below and the costs of financing the sewer improvements.

2. The proposed schedule of maximum rates for August 1, 2007 through June 30, 2012 is shown in the table below. If the rate increases are approved, it is proposed that they will commence to be collected beginning with the August 1, 2007 utility bills and will continue to be collected until otherwise modified by the City. The sewer rates will not exceed the maximum amounts shown without another written notice to the property owners. All increases will occur as of July 1 of each subsequent year.

3. Before taking final action on the proposed rate increase, the City Council will hold a **PUBLIC HEARING on Tuesday, July 24, 2007, at 5:30 p.m. in the City Council Chambers, 1010 Tenth Street, Basement Level, Modesto.** The Public Hearing being held to allow the public to provide testimony on the proposed sewer rate increase. The Council may continue the hearing from time to time without further written notice.

4. Any property owner may file with the City Clerk, at any time before the end of the Public Hearing, a written protest against the proposed rate increase. The written protest must identify the property, the property owner, and be signed by the owner of the property or an authorized representative of the owner of the property.

A protest form has been provided below for your use. The written protests may be hand delivered or mailed to the City Clerk at the City's address shown above. To be counted, the City Clerk must receive a written protest not later than the end of the Public Hearing specified above. Protests by telephone, fax, or e-mail will not be accepted. A majority protest exists if, at the end of the Public Hearing, there are valid written protests submitted by owners of a majority of the properties subject to the proposed rate increase. A majority protest will result in the proposed rate increase not being imposed. Note that no more than one protest per property may be submitted.

5. To get additional information about the proposed rate increase, contact Customer Service at (209) 577-5395 or e-mail sewerrates@modestogov.com

Additional written material relating to protest procedures is available at the above City Clerk address during regular business hours.

Proposed Maximum Monthly Sewer Rates

	Year 1 1-Aug-07	Year 2 1-Jul-08	Year 3 1-Jul-09	Year 4 1-Jul-10	Year 5 1-Jul-11
Residential Rates					
Monthly Account Charge ($/Account)	$2.57	$3.71	$4.26	$4.53	$4.74
plus Dwelling Unit Charge ($/Dwelling Unit)					
Single Family Residential (SFR)	$15.97	$23.17	$26.65	$29.48	$30.98
Multiple Family 2-4 Dwelling Units	$13.71	$19.89	$22.89	$25.31	$26.60
Apartments (5 or more Dwelling Units)	$10.41	$15.10	$17.37	$19.21	$20.19
Commercial Rates					
Monthly Account Charge ($/Account)	$2.57	$3.71	$4.26	$4.53	$4.74
plus Quantity Charge ($/100 cubic feet)					
Group 1-BOD + TSS is 400 mg/l or less *	$1.35	$1.97	$2.26	$2.50	$2.63
Group 2-BOD + TSS is 401 mg/l to 900 mg/l	$1.67	$2.42	$2.78	$3.11	$3.27
Group 3-BOD + TSS is 901 mg/l to 1,400 mg/l	$1.98	$2.87	$3.31	$3.73	$3.91
Group 4-BOD + TSS is 1,401 mg/l or more	$2.36	$3.42	$3.94	$4.46	$4.69

* Churches and schools are billed at the Commercial Group 1 rate.

Proposed Maximum Monthly Sewer Rates

	Year 1 1-Aug-07	Year 2 1-Jul-08	Year 3 1-Jul-09	Year 4 1-Jul-10	Year 5 1-Jul-11
Industrial (Major and Minor) Rates					
Monthly Acct Charge ($/Acct)	$2.57	$3.71	$4.26	$4.53	$4.74
plus Quantity Charges (these three components are additive)					
Flow Charge ($/M gallons)	$1,475.66	$2,139.32	$2,460.12	$2,687.91	$2,822.83
BOD Charge ($/1,000 lbs.)	$72.98	$106.21	$122.61	$144.69	$152.53
TSS Charge ($/1,000 lbs.)	$127.82	$185.75	$214.11	$247.48	$260.51

Sample Calculations for Residential Properties:
Single Family Residential = $15.97 + $2.57/account = $18.54
Duplex = 2 units x $13.71/unit = $27.42 + $2.57/account = $29.99
10 Unit Apartment = 10 units x $10.41/unit = $104.10 + $2.57/account = $106.97

Abbreviations: M = million BOD = Bio-chemical Oxygen Demand
TSS = Total Suspended Solids lbs = pounds mg/l = milligrams per liter

The proposed rate increase(s) are based on currently available information. Your actual bills are rounded and may be slightly different than listed above. State law requires that all property owners affected by the rate increase(s) be given the opportunity to protest the proposed rate increase(s).

Beginning on July 1, 2012, maximum rates will be adjusted each year thereafter by the annual change in the Consumer Price Index (CPI), Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA that is currently prepared by the California Department of Finance. The actual rates to be levied each year will not exceed the adjusted maximum rates in any given fiscal year without notification and right of protest by the property owners.

SAMPLE - Protest Form

If you would like to protest the proposed Sewer Rate Increase, you may complete this Protest Form, detach it, and mail it to the Modesto City Clerk, P.O. Box 642, Modesto, CA 95353 or hand deliver the form to the City Clerk's office, 1010 Tenth Street, Sixth Floor, Modesto, CA 95354. In order for this form to be counted as a valid protest against the proposed rate increase, this form must be signed and delivered to the City Clerk no later than the end of the Public Hearing on July 24, 2007. ***Only one protest is allowed per property.***

Assessor's Parcel Number: <<APN>>

Parcel Address: <<Situs Address>>

☐ **I protest the proposed sewer rate increase to fund operation, maintenance and replacement costs related to providing sewer service to properties within the Modesto Sewer Service Area.**

I hereby declare under penalty of perjury that I am the owner of the above listed property or the authorized representative of the owner of the above listed property.

Please sign here and then print your name: _____SAMPLE_____

Please print the property owner name here: _____SAMPLE_____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-464

A RESOLUTION ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR ALLEY PAVING AND CURB AND SIDEWALK IMPROVEMENTS

WHEREAS, in 1986, the City Council of the City of Modesto, California ("Council") passed resolutions allowing the City to pave along certain alleys and construct curbs and sidewalks within the City.

WHEREAS, the property owners had the choice of paying the construction costs at the time of construction or they could elect to have them paid in installments on their property tax bills.

WHEREAS, the charges against the real property are for actual work performed and are for the purpose of alley paving and curb and sidewalk improvements.

WHEREAS, the City Council has determined and certified that the charges are either exempt from or in compliance with all the provisions of Proposition 218 which was passed by the voters in November 1996, and

WHEREAS, the City Council has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby orders the levy and collection of assessments for the 2007-08 fiscal year as shown in **Attachment A**, and that a certified copy of this resolution together with attached documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such assessments on the 2007-08 County tax roll and in each subsequent fiscal year in which charges may validly be levied.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT "A"

CITY OF MODESTO
ASSESSMENT ROLL RECEIVABLE LIST
2007-2008
TAX CODE 57125

PARCEL#	AMT	TX CODE	DESCRIPTION	NAME
120022004000	329.14	57125	SIDEWALK	WINTERS, HERMAN

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-465

A RESOLUTION APPROVING A PROGRAM AGREED UPON BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY EMPLOYEES' ASSOCIATION (MCEA) TO PROVIDE FOR FLEXIBLE STAFFING IN THE CUSTOMER SERVICES DIVISION OF THE FINANCE DEPARTMENT AND ABOLISHING THE SUNSET PROVISION OF THE PILOT PROGRAM

WHEREAS, Resolution No. 2005-194, adopted by the Council on April 26, 2005, approved an agreement between the City of Modesto and Modesto City Employees' Association (MCEA) to establish a Flexible Staffing Pilot Program (the "Program") to allow for the study and development of flexible staffing options for identified Customer Service Account Clerks to be based on measurable knowledge, skills, abilities, and time-in-grade criteria, and

WHEREAS, the Program has been successful in meeting established goals and criteria including limiting the number of Customer Services Account Clerk III's to no more than 25% of the total number of Customer Service Account Clerks allocated to the Division, and

WHEREAS, the Program allowed for an amendment to the classification plan as approved by Resolution No.2005-195, adopted by the Council on April 26, 2005, and amended the Class Range Table for General Non-Sworn Classes to establish a salary range for Customer Service Account Clerk I at range 109, Customer Service Account Clerk II at range 111, Customer Service Account Clerk III at range 115, and Customer Service Account Technician at range 118 by Resolution No. 2005-196, adopted by the Council on April 26, 2005, and

WHEREAS, the parties request that the City Council approve the Flexible Staffing Program agreed upon between the City of Modesto and MCEA, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Flexible Staffing Program agreed upon between the City of Modesto and MCEA on an on-going basis in the Customer Services Division of the Finance Department.

BE IT FURTHER RESOLVED that the sunset provision set forth in the Flexible Staffing Pilot Program is hereby abolished.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of August 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-466

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO.

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

Code Enforcement Officer-Neighborhood Preservation I/II

The job specification for this classification is being created as a result of a completed classification study to identify the assignment in the Neighborhood Preservation Unit. The job specification for the classification of Code Enforcement Officer-Neighborhood Preservation I/II, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after August 8, 2007.

The foregoing resolution was introduced in a special meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
No. 3213
No. 3212

August 2007

CODE ENFORCEMENT OFFICER-Neighborhood Preservation I
CODE ENFORCEMENT OFFICER-Neighborhood Preservation II

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To investigate and enforce applicable ordinances, codes, and regulations related to, zoning, land use, health and safety, blight, graffiti, and water waste involving both office and field work.

DISTINGUISHING CHARACTERISTICS:

Code Enforcement Officer-Neighborhood Preservation I: This is the entry level class in the series. This class is distinguished from the Code Enforcement Officer-Neighborhood Preservation II by the performance of the more routine tasks and duties assigned to positions within the series including routine inspections and investigations.

Code Enforcement Officer-Neighborhood Preservation II: This is the full journey level class series. Employees within this class are distinguished from the Code Enforcement Officer-Neighborhood Preservation I by the performance of the full range of duties as assigned including a variety of investigations, inspections, and related code enforcement activities. Employees at this level receive only occasional instruction or assistance as new or unusual situations arise, and are fully aware of the operating procedures and policies of the work unit.

SUPERVISION RECEIVED AND EXERCISED

Code Enforcement Officer-Neighborhood Preservation I: Receives immediate supervision from higher level supervisory and management staff.

Code Enforcement Officer-Neighborhood Preservation II: Receives general supervision from higher level supervisory and management staff. May exercise technical supervision over less experienced staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Receive, investigate, and respond to complaints of violations of local and state laws, ordinances, or codes and regulations related to zoning, land use, health and safety, blight, graffiti, and water waste and related issues.

Patrol assigned area in a City vehicle to investigate and mitigate alleged complaints of violations.

Conduct field investigations; contact responsible persons, interview citizens, photograph evidence, develop and maintain detailed information for case files regarding code enforcement activity to substantiate violations.

Interact with the public in potentially volatile situations; resolve disputes regarding code enforcement matters in a tactful and productive manner.

Research ownership and lien holders of subject properties.

Perform follow-up investigations to ensure that remedial action has been taken.

Prepare and manage a caseload including maintaining accurate case files composing letters, memos, and writing related reports;

Issue notice of violations, criminal and administrative citations; notice and order, abatement warrants, abatement orders and property and code enforcement liens; consulting with Deputy City Attorney, as needed.

Based on the severity of the violation(s), prepare and present cases during Administrative Hearings or criminal proceedings, as required.

Coordinate and facilitate investigations with other agencies and City departments on the investigations and disposition of cases.

Analyze, evaluate, and interpret all City codes; explain and educate members of the public on enforcement procedures.

Develop and implement public information programs and education programs to inform citizens of the programs that this division enforces.

Represent the City during public meetings, City Council meetings, neighborhood forums and necessary court appearances or administrative hearings.

Essential Functions: (Continued)

Drive assigned City vehicles for entire work shift in a safe and knowledgeable manner.

Input daily case reports and perform other administrative tasks as needed.

Interpret architectural drawings and read blueprints and plot plans to determine set backs, planned developments, and clear vision triangles.

Marginal Functions:

Perform other duties as assigned.

QUALIFICATIONS

Level I

Knowledge of:

Basic personal computer operations.

Safe and efficient work practices related to code enforcement activities.

Procedures and techniques for working with the public in a tactful but ~~firm~~ professional manner.

Ability to:

Learn to enforce various codes, ordinances, laws and regulations.

Establish and maintain cooperative working relationships with those contacted in the course of work.

Exercise independent judgment and make sound decisions in emergency situations.

Communicate clearly and concisely, both orally and in writing; write defensible reports.

Evaluate and establish priorities; handle simultaneous events effectively.

Ability to: (Continued)

Establish and maintain effective working relationships with coworkers, subordinates and supervisors, other departments, outside agencies and the public including the ability to resolve conflicts.

Interact with the public displaying a high degree of courtesy, tact, compassion and poise.

Exercise independent judgment and make sound decisions in the performance of job duties.

Work with considerable independence in setting priorities and finding solutions to code related issues.

Provide high level of expertise in conduct of investigations, which may require coordination with other aspects of law enforcement issues such as animal abuse/cruelty, building inspection, and criminal investigation.

Interpret and apply applicable laws, ordinances and regulations.

Learn the operation of standard equipment required for job performance including the use of a computer and police radio.

Use maps and learn City geography.

Communicate effectively; make and prepare clear presentations and reports both orally and in writing.

Maintain detailed reports and research code enforcement activities.

Work effectively and efficiently under stressful situations and with minimum supervision.

Carry out conflict resolution skills.

Type at a reasonable speed.

Handle multiple priorities at the same time.

In addition to the qualifications for Code Enforcement Officer-Neighborhood Preservation I:

Level II

Knowledge of:

City codes, ordinances, laws and regulations pertaining to zoning, signs, water conservation, environmental issues and neighborhood blight.

Basic legal procedures regarding City/County services, programs and governmental operations.

Principles, practices, methods and techniques of code enforcement including some familiarity with criminal law and enforcement.

Research methods.

Ability to:

Inspect and identify violations of applicable City codes and ordinances.

Use and interpret various government codes.

Work independently with minimum supervision.

Experience and Training Guidelines:

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Code Enforcement Officer-Neighborhood Preservation I

Experience:

One year of experience dealing with the public in an enforcement, inspection, investigation or customer service capacity. Experience including the enforcement of municipal codes is highly desirable.

Training:

Equivalent to completion of the twelfth grade supplemented by college level coursework in public administration, business administration, criminal justice, or other related field. Equivalent to an Associate of Arts Degree from an accredited college in a related field is desirable.

License or Certificate:

Possession of a valid Class C California driver's license with a satisfactory driving record is required by date of appointment.

Possession of a POST approved P.C. 832 Certificate is required by the end of probationary period. Failure to obtain this certification may result in release from probation or termination.

Possession of a basic code enforcement academy certification issued by the California Association of Code Enforcement Officers (C.A.C.E.O.) or American Association of Code Enforcement Officers (A.A. C.E.) is required by end of probationary period.

Code Enforcement Officer-Neighborhood Preservation II

Experience:

Two years of journey level experience in code enforcement, investigative or public relations which include enforcing established laws, codes, or regulations; or one year of experience as a Code Enforcement Officer I.

Training:

Equivalent to completion of the twelfth grade supplemented by college level coursework in public administration, business administration, criminal justice, or other related field. Equivalent to an Associate of Arts Degree from an accredited college in a related field is desirable.

License or Certificate:

Possession of a valid Class C California driver's license with a satisfactory driving record is required by date of appointment.

Possession of a POST approved P.C. 832 Certificate is required by date of appointment.

Possession of a basic code enforcement academy certification issued by the California Association of Code Enforcement Officers (C.A.C.E.O.) or American Association of Code Enforcement Officers (A.A.C.E.). Advanced level certification is desirable.

WORKING CONDITIONS

Environmental Conditions

Work is performed both in a office and field environment subject to typical office noise, environment and regular travel from site-to-site. Positions may require occasional overtime or weekend work.

Physical and Mental Requirements

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 10 pounds; occasionally up to 25 pounds. **Vision**: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity**: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking, in person and on the phone. **Emotional/Psychological**: frequent decision-making and concentration; frequent public and coworker contact; occasional working alone. **Environmental**: frequent exposure to noise, weather conditions, irate people and vicious dogs.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-467

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-319 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES TO ESTABLISH THE SALARY RANGE FOR CODE ENFORCEMENT OFFICER - NEIGHBORHOOD PRESERVATION I AT SALARY RANGE 119 AND ESTABLISH THE SALARY RANGE FOR CODE ENFORCEMENT OFFICER - NEIGHBORHOOD PRESERVATION II AT SALARY RANGE 123.

WHEREAS, the City Council desires to amend **Exhibit "A"** of Resolution

No. 2006-319, which approved the Class Range Table for General Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2006-319. Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective February 27, 2007," attached to Resolution No. 2006-319, is hereby amended as shown on the amended Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective August 8, 2007," which is attached hereto and made a part hereof as though set forth in full herein. Said amended **Exhibit "A"** establishes the salary range for Code Enforcement Officer-Neighborhood Preservation I at range 119 ($3,307-$4,020 per month) and establishes a salary range for Code Enforcement Officer-Neighborhood Preservation II at range 123 ($3,651- $4,438 per month.)

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after August 8, 2007.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on 8th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective **August 8, 2007**

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Exhibits Coordinator Police Clerk I
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II Police Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Animal Control Officer I Electrical Technician I Equipment Service Technician Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

RANGE	TITLE
115	Accounting Technician Administrative Services Technician I Code Enforcement Officer I Community Service Officer I Customer Services Account Clerk III Senior Administrative Office Assistant
116	Equipment Operator Fire Prevention Technician I Motor Sweeper Operator Traffic Operations Technician Used Oil Coordinator Wastewater Collection System Operator Water Distribution Operator I
117	Electrical Technician II
118	Customer Services Accounting Technician Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer Water Distribution Operator II
119	Administrative Services Technician II Animal Control Officer II Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer II **Code Enforcement Officer-Neighborhood Preservation I** Community Service Officer II Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Public Information Technician

RANGE	TITLE
120	Accountant I Assistant Electrician Fire Prevention Technician II Laboratory Analyst I Senior Equipment Operator Traffic Painter Crewleader Wastewater Treatment Plant Operator I Water Resource Specialist I Welder/Fabricator
121	
122	Equipment Mechanic Fire Equipment Mechanic Law Enforcement Academy Recruit Tree Trimmer Crewleader
123	Airport Maintenance Crewleader Civil Engineering Technician II **Code Enforcement Officer-Neighborhood Preservation II** Identification Technician I Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I Cross Connection Specialist Environmental Compliance Inspector I Heavy Equipment Mechanic Laboratory Analyst II Operation and Maintenance Crewleader Planning Assistant Plant Mechanic Wastewater Treatment Plant Operator II Water Conservation Specialist Water Distribution Operator III Water Production Operator I Water Resource Specialist II Water Services Equipment Operator I
125	Crime Analyst

RANGE	TITLE
126	Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I Wastewater Treatment Plant Operator III
127	Civil Engineering Assistant Identification Technician II Senior Fire Equipment Mechanic
128	Building Inspector I Community Development Program Specialist II Electrician Environmental Compliance Inspector II Heavy Equipment Mechanic Crewleader Instrument Repair Technician Water Production Operator II Water Services Equipment Operator II
129	
130	Construction Inspector Housing Rehabilitation Specialist II Laboratory Analyst III Project Coordinator Senior Wastewater Treatment Plant Operator
131	Senior Civil Engineering Assistant
132	Building Inspector II Environmental Review Specialist Senior Environmental Compliance Inspector Water Division Crewleader
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Construction Inspector
136	Senior Building Inspector

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-468

A RESOLUTION APPROVING AN AGREEMENT WITH THE STANISLAUS COUNTY PROBATION DEPARTMENT IN THE AMOUNT OF $91,670 FOR ONE POLICE OFFICER TO PROVIDE HIGH RISK OFFENDER/JUVENILE WARRANT ENFORCEMENT PROGRAM FOR FISCAL YEAR 2007/08, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, in 2001 the Stanislaus County Probation Department received a grant to provide funding of the High Risk Offender/Juvenile Warrant Enforcement Program, and

WHEREAS, the goals of the High Risk Offender/Juvenile Warrant Enforcement Program are to reduce juvenile crime and gang involvement and increase offender accountability, and

WHEREAS, the Stanislaus County Probation Department has a need for a Police Officer to partner with a Probation Officer to provide intensive supervision and monitoring to high risk juvenile wards and enforcement of Juvenile Court warrants and conduct police/probation activities to curtail delinquent behavior in high crime areas, and

WHEREAS, the Modesto Police Department has provided an experienced and competent Police Officer for these purposes since 2001, and

WHEREAS, the term of this Agreement is July 1, 2007, through June 30, 2008, and

WHEREAS, the City shall be compensated $91,670 for the salary and benefits for one (1.0 FTE) Police Officer,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with the Stanislaus County Probation Department in

the amount of $91,670 for one Police Officer to provide High Risk Offender/Juvenile Court Warrant Enforcement Program.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-469

A RESOLUTION ACCEPTING THE WORK BY GOODLAND LANDSCAPE CONSTRUCTION, INC., FOR THE PROJECT TITLED "FREEDOM NEIGHBORHOOD PARK" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $2,184,262.81

WHEREAS, a report has been filed by the Public Works Director that the project titled "Freedom Neighborhood Park" has been completed by Goodland Landscape Construction, Inc., in accordance with the contract agreement dated January 24, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Freedom Neighborhood Park" is hereby accepted as complete from said contractor, Goodland Landscape Construction, Inc, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $2,184,262.81, is authorized as provided in the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-470

Print

A RESOLUTION ACCEPTING THE WORK BY LAYNE CHRISTENSEN COMPANY, FOR THE PROJECT TITLED "URANIUM AND ARSENIC INVESTIGATION AT WELL 55 AND WELL 313" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $97,433.95

WHEREAS, a report has been filed by the Public Works Director that the project titled "Uranium and Arsenic Investigation at Well 55 and Well 313" has been completed by Layne Christensen Company, in accordance with the contract agreement dated December 5, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Uranium and Arsenic Investigation at Well 55 and Well 313" is hereby accepted as complete from said contractor, Layne Christensen Company, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $97,433.95, is authorized as provided in the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-471

A RESOLUTION APPROVING A LICENSE AGREEMENT WITH THE MODESTO IRRIGATION DISTRICT (MID) FOR THE PURPOSE OF INSTALLING AND MAINTAINING PRESSURE REGULATING VALVES ON THE DOMESTIC WATER TRANSMISSION PIPELINE LOCATED ON MID PROPERTY, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City and the Modesto Irrigation District (MID) have begun work planning to expand the Modesto Regional Water Treatment Plant (MRWTP) from its existing capacity of 30 million gallons per day (mgd) to 60 mgd, and

WHEREAS, the MRWTP currently treats water from the Modesto Reservoir and conveys it to the City's service area to combine with groundwater sources to meet the City's water supply needs, and

WHEREAS, the City has determined that its distribution system needs additional downstream improvements to fully integrate the expanded MRWTP with the City's water distribution system, and

WHEREAS, pressure regulating valves are needed to adequately distribute water throughout each section of the City, and

WHEREAS, eight pressure regulating valves will be located within MID right-of-way, and

WHEREAS, the Modesto Irrigation District requires a License Agreement to install and maintain improvements in the District right-of-way, and

WHEREAS, at its March 8, 2004 meeting the Economic Development Committee approved this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement with the Modesto Irrigation District (MID) for the

purpose of installing and maintaining Pressure Regulating Valves on the domestic water transmission pipeline located on MID property.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-472

A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE NON SWORN ASSOCIATION (MPNSA) FOR A TERM OF JULY 24, 2007 THROUGH JUNE 23, 2008.

WHEREAS, the Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Non Sworn Association (MPNSA) expired on July 23, 2007, and

WHEREAS, representatives of the CITY and the MPNSA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated July 31, 2007, a copy of which report is on file in the office of the City Clerk, the CITY and MPNSA have reached agreement on a new MOU which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. SALARY. A minimum of 3.0% across-the-board salary increase effective July 24, 2007, with a maximum increase equal to any across-the-board increase granted employees represented by the Modesto City Employees' Association (MCEA) or the Modesto Confidential and Management Association (MCMA) during the term of this MOU. This provision for a maximum increase equal to MCEA or MCMA shall expire on June 23, 2008.

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	7/24/07
Family	$890
Single	495
Opt Out	400

SECTION 3. LABOR MARKET SURVEY. A market survey is to be undertaken and is anticipated to commence no later than October 15, 2007. The parties will meet and confer on the labor market agencies to be surveyed. Final labor market data is anticipated to be available for subsequent negotiations by March 24, 2008, and the parties agree to expeditiously begin negotiations once the final data is available.

SECTION 4. RETIREE HEALTH PROGRAM. The parties have agreed to continue meeting and evaluating alternatives to the current Retiree Health Program structure. If the parties are able to identify an acceptable alternative, negotiations will commence on its implementation. MPNSA has reiterated the Association's intention to link enhanced Retirement to Retiree Health negotiations.

SECTION 5. ADDITIONAL CHANGES. Other negotiated additions, deletions or amendments to the text of the Memorandum of Understanding deal with shift differential and leaves, as well as pending items related to personnel rules and to succession planning, and

WHEREAS, the Council considered this matter at its meeting of August 8, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Police Non Sworn Association (MPNSA), which covers a term from July 24, 2007 through June 23, 2008, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-473

A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR PUBLIC SAFETY NON-SWORN CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO EFFECTIVE JULY 24, 2007, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2007-472 APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE NON SWORN ASSOCIATION (MPNSA) ADOPTING SALARY AND BENEFIT CHANGES AND SETTING FORTH SALARY SCHEDULES FOR PUBLIC SAFETY NON-SWORN CLASSES; AMENDING THE CLASS RANGE TABLE FOR GENERAL NON SWORN CLASSES AS SET FORTH IN EXHIBIT "B" ATTACHED HERETO EFFECTIVE JULY 24, 2007, TO REFLECT THE REMOVAL OF PUBLIC SAFETY NON SWORN CLASSES.

WHEREAS, on August 8, 2007, the City Council adopted Resolution No. 2007-472 approving the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Police Non Sworn Association (MPNSA) setting forth salary schedules for public safety non-sworn classes, and

WHEREAS, Council desires to establish a Class Range Table for Public Safety Non Sworn classes, and

WHEREAS, Council desires to amend the Class Range Table for General Non Sworn classes to remove the Public Safety Non Sworn classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Class Range Table for Public Safety Non-Sworn Classes, entitled "City of Modesto Class Range Table Public Safety Non-Sworn Classes Effective July 24, 2007" which is attached hereto as **Exhibit "A"** and made a part hereof as though set forth in full herein.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves the Class Range Table for General Non-Sworn Classes, entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective July 24, 2007" which is attached hereto as **Exhibit "B"** and made a part hereof as though set forth in full herein.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of August 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
PUBLIC SAFETY NON-SWORN CLASSES
Effective **July 24, 2007**

RANGE	TITLE
1101	
1103	
1104	
1105	
1106	
1107	**Police Clerk I**
1108	
1109	
1110	
1111	**Police Clerk II**
1112	
1113	
1114	**Animal Control Officer I** **Evidence and Property Specialist**
1115	**Community Service Officer I**
1116	**Fire Prevention Technician I**
1117	
1118	
1119	**Animal Control Officer II** **Community Service Officer II**
1120	**Fire Prevention Technician II**

Exhibit "A"

RANGE	TITLE
1121	
1122	**Law Enforcement Academy Recruit**
1123	**Identification Technician I**
1124	
1125	**Crime Analyst**
1126	
1127	**Identification Technician II**
1128	
1129	
1130	
1131	
1132	
1133	
1134	**Deputy Fire Marshal**
1136	

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective **July 24, 2007**

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Exhibits Coordinator
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Electrical Technician I Equipment Service Technician Maintenance Worker II Production Technician Storeskeeper

Exhibit "B"

RANGE	TITLE
115	Accounting Technician
	Administrative Services Technician I
	Code Enforcement Officer I
	Customer Services Account Clerk III
	Senior Administrative Office Assistant
116	Equipment Operator
	Motor Sweeper Operator
	Traffic Operations Technician
	Used Oil Coordinator
	Wastewater Collection System Operator
	Water Distribution Operator I
117	Electrical Technician II
118	Customer Services Accounting Technician
	Fleet Procurement Specialist
	Parking Lot Maintenance Crewleader
	Parks Crewleader
	Recreation Coordinator
	Senior Storeskeeper
	Tree Trimmer
	Water Distribution Operator II
119	Administrative Services Technician II
	Assistant Buyer
	Building Maintenance Mechanic
	Civil Engineering Technician I
	Code Enforcement Officer II
	Code Enforcement Officer-Neighborhood Preservation I
	Maintenance Mechanic – Parks
	Maintenance Mechanic – Pumps
	Public Information Technician

RANGE	TITLE
120	Accountant I Assistant Electrician Laboratory Analyst I Senior Equipment Operator Traffic Painter Crewleader Wastewater Treatment Plant Operator I Water Resource Specialist I Welder/Fabricator
121	
122	Equipment Mechanic Fire Equipment Mechanic Tree Trimmer Crewleader
123	Airport Maintenance Crewleader Civil Engineering Technician II Code Enforcement Officer-Neighborhood Preservation II Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I Cross Connection Specialist Environmental Compliance Inspector I Heavy Equipment Mechanic Laboratory Analyst II Operation and Maintenance Crewleader Planning Assistant Plant Mechanic Wastewater Treatment Plant Operator II Water Conservation Specialist Water Distribution Operator III Water Production Operator I Water Resource Specialist II Water Services Equipment Operator I
125	
126	Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I Wastewater Treatment Plant Operator III

RANGE	TITLE
127	Civil Engineering Assistant Senior Fire Equipment Mechanic
128	Building Inspector I Community Development Program Specialist II Electrician Environmental Compliance Inspector II Heavy Equipment Mechanic Crewleader Instrument Repair Technician Water Production Operator II Water Services Equipment Operator II
129	
130	Construction Inspector Housing Rehabilitation Specialist II Laboratory Analyst III Project Coordinator Senior Wastewater Treatment Plant Operator
131	Senior Civil Engineering Assistant
132	Building Inspector II Environmental Review Specialist Senior Environmental Compliance Inspector Water Division Crewleader
133	
134	Plan Review Engineer Senior Construction Inspector
136	Senior Building Inspector

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective **August 8, 2007**

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Exhibits Coordinator Police Clerk I
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II Police Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Animal Control Officer I Electrical Technician I Equipment Service Technician Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

RANGE	TITLE
115	Accounting Technician Administrative Services Technician I Code Enforcement Officer I Community Service Officer I Customer Services Account Clerk III Senior Administrative Office Assistant
116	Equipment Operator Fire Prevention Technician I Motor Sweeper Operator Traffic Operations Technician Used Oil Coordinator Wastewater Collection System Operator Water Distribution Operator I
117	Electrical Technician II
118	Customer Services Accounting Technician Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer Water Distribution Operator II
119	Administrative Services Technician II Animal Control Officer II Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer II **Code Enforcement Officer-Neighborhood Preservation I** Community Service Officer II Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Public Information Technician

RANGE	TITLE
120	Accountant I Assistant Electrician Fire Prevention Technician II Laboratory Analyst I Senior Equipment Operator Traffic Painter Crewleader Wastewater Treatment Plant Operator I Water Resource Specialist I Welder/Fabricator
121	
122	Equipment Mechanic Fire Equipment Mechanic Law Enforcement Academy Recruit Tree Trimmer Crewleader
123	Airport Maintenance Crewleader Civil Engineering Technician II **Code Enforcement Officer-Neighborhood Preservation II** Identification Technician I Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I Cross Connection Specialist Environmental Compliance Inspector I Heavy Equipment Mechanic Laboratory Analyst II Operation and Maintenance Crewleader Planning Assistant Plant Mechanic Wastewater Treatment Plant Operator II Water Conservation Specialist Water Distribution Operator III Water Production Operator I Water Resource Specialist II Water Services Equipment Operator I
125	Crime Analyst

RANGE	TITLE
126	Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I Wastewater Treatment Plant Operator III
127	Civil Engineering Assistant Identification Technician II Senior Fire Equipment Mechanic
128	Building Inspector I Community Development Program Specialist II Electrician Environmental Compliance Inspector II Heavy Equipment Mechanic Crewleader Instrument Repair Technician Water Production Operator II Water Services Equipment Operator II
129	
130	Construction Inspector Housing Rehabilitation Specialist II Laboratory Analyst III Project Coordinator Senior Wastewater Treatment Plant Operator
131	Senior Civil Engineering Assistant
132	Building Inspector II Environmental Review Specialist Senior Environmental Compliance Inspector Water Division Crewleader
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Construction Inspector
136	Senior Building Inspector

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-474

Print

A RESOLUTION AMENDING THE FISCAL YEAR 07-08 OPERATING BUDGET TO TRANSFER $203,704 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, TO VARIOUS SALARY AND BENEFIT ACCOUNTS TO PROVIDE FUNDING FOR THE NEGOTIATED AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE NON SWORN ASSOCIATION EFFECTIVE JULY 24, 2007

WHEREAS, the City Council desires to authorize salary and benefit changes as part of the negotiated agreement between the City of Modesto and the Modesto Police Non Sworn Association, effective July 24, 2007, and

WHEREAS, the FY 07-08 costs associated with this 3.0% salary increase and various benefit increases are estimated at $211,411, effective July 24, 2007, and

WHEREAS, $203,704 of these increased expenditures have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2007-08 Operating Budget is hereby amended to transfer $203,704 from 0100-800-8000-8003, the General Fund Reserve to various salary and benefit accounts, to fund said salary and benefit changes negotiated as part of the Memorandum of Understanding between the City of Modesto and the Modesto Police Non Sworn Association.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-475

A RESOLUTION APPROVING A ONE-HALF PERCENT (0.5%) SALARY ADJUSTMENT FOR EMPLOYEES REPRESENTED BY THE MODESTO MANAGEMENT AND CONFIDENTIAL ASSOCIATION (MCMA) EFFECTIVE JULY 24, 2007

WHEREAS, pursuant to Resolution No. 2007-446, the Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Confidential and Management Association (MCMA) was approved on July 24, 2007, and

WHEREAS, pursuant to Resolution No. 2007-446, SECTION 1. SALARY, the MOU provides as follows:

A minimum of 2.5% across-the-board salary increase effective July 24, 2007, subject to Pay for Performance criteria, with a maximum increase equal to any across-the-board increase granted employees represented by the Modesto City Employees' Association (MCEA) or the Modesto Police Non-Sworn Association (MPNSA) during the term of this MOU. This provision for a maximum increase equal to MCEA or MPNSA shall expire on June 23, 2008.

WHEREAS, the City and MPNSA have reached an agreement on a three percent (3%) across-the-board salary increase effective July 24, 2007, and

WHEREAS, on August 8, 2007, the City Council approved an MOU between the City and MPNSA which included the 3% salary increase, and

WHEREAS, employees represented by MCMA are therefore entitled to an additional one-half percent (0.5%) salary increase, from two and one-half percent (2.5%) to three percent (3%), effective July 24, 2007, and

WHEREAS, the Council considered this matter at its meeting of August 8, 2007.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the salary adjustment from 2.5% to 3% for employees represented by the Modesto Confidential and Management Association (MCMA) effective July 24, 2007.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Council of the City of Modesto that implementation of any retroactive portion of this salary change may be subject to methods mutually agreed to by the City and MCMA. Such methods may include, but are not limited to, employee lump sum payment in lieu of individual employee payroll calculations.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-476

A RESOLUTION AMENDING THE FISCAL YEAR 07-08 OPERATING BUDGET TO TRANSFER $46,985 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, AND $46,361 FROM OTHER FUND RESERVES, TO VARIOUS SALARY AND BENEFIT ACCOUNTS FOR IMPLEMENTATION OF A 0.5% SALARY INCREASE FOR EMPLOYEES REPRESENTED BY THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION EFFECTIVE JULY 24, 2007

WHEREAS, by Resolution No. 2007-446, the City Council approved a Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Confidential and Management Association (MCMA), effective July 24, 2007, and

WHEREAS, the MCMA MOU provides for a minimum 2.5% salary increase and a maximum increase equal to that granted to employees represented by the Modesto Police Non Sworn Association (MPNSA) or the Modesto City Employees Association (MCEA), and

WHEREAS, on August 8, 2007, the Council approved an MOU with MPNSA which provides for a 3% salary increase, and

WHEREAS, employees represented by MCMA are therefore authorized to receive an additional 0.5% salary increase for a total of 3%, and

WHEREAS, the FY 07-08 costs associated with this 0.5% salary increase are estimated at $93,346, effective July 24, 2007, and

WHEREAS, these increased expenditures have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2007-08 Operating Budget is hereby amended to transfer $46,985 from 0100-800-8000-8003, the General Fund Reserve, and $46,361 from other Fund reserves to various salary and benefit accounts, to fund said salary change negotiated as

part of the Memorandum of Understanding between the City of Modesto and the Modesto Confidential and Management Association.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-477

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(580) (TALLAC MODESTO PARTNERS, LLC)

WHEREAS, a verified application for an amendment to Section 29-3-9 of the Zoning Map was filed by Tallac Modesto Partners, LLC on March 20, 2007, to reclassify from Light Industrial Zone, M-1, to Planned Development Zone, P-D(580), to allow the conversion of an existing building into individually owned airspace office condominium units, property located at 1231 8th Street, described as follows:

Rezone M-1 to P-D(580)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the Southwest quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

All of Lots 1 thru 11 in Block 39 as shown on that Map of City of Modesto Block 39 filed in Volume 15 of Maps, Page 39, Stanislaus County Records;

also including the southwesterly half of 8th Street; the southeasterly half of M St, and the northeasterly half of the alley; all being immediately adjacent to the above described property.

WHEREAS, after a public hearing held on June 18, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-25, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed amendment is consistent with the Modesto Urban Area General Plan because the existing use of the property as commercial office space is consistent with Redevelopment Planned District and subsequently, with the goals of the Redevelopment Commission for economic and community development.

2. The proposed Planned Development Zone amendment will be compatible with the surrounding land uses.

3. The proposed amendment is exempt from CEQA, based upon Section 15305 for minor alterations in land use limitations.

WHEREAS, said matter was set for a public hearing of the City Council to be held on August 8, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Tallac Modesto Partners, LLC for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-25 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3450-C.S. on the 8th day of August, 2007, reclassifying the above-described property from Light Industrial Zone, M-1 to Planned Development Zone, P-D(580).

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

SECTION 1. DEVELOPMENT PLAN

The development plan for Planned Development Zone, P-D(580), is hereby approved subject to the following conditions:

1. Any business may be open to the public only between the hours of 7:00 a.m. and 10:00 p.m. seven days a week, unless a use permit for each business seeking additional hours is obtained from the Board of Zoning Adjustment.

2. No operations conducted on the premises shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration, or electrical interference detectable off the premises. All machinery or equipment shall be soundproofed as required by the Chief Building Official.

or:

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(580):

> The Final map shall be recorded on or before two years following approval of the Tentative Parcel Map.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(580), becomes effective.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department
Planning Division

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-478

A RESOLUTION DENYING THE APPEAL OF MR. DENNIS McDONALD AND UPHOLDING THE DECISION OF THE PUBLIC WORKS DIRECTOR AUTHORIZING THE USE OF A PROPOSED TAXICAB COLOR SCHEME BY MR. BOBBY RATHI.

WHEREAS, Modesto Municipal Code, Section 4-6.201 grants the Public Works Director the authority to approve taxicab companies to operate in the City, and

WHEREAS, Mr. Bobby Rathi applied to operate a new taxicab company, and

WHEREAS, Mr. Rathi proposed a color scheme for his taxicabs, and

WHEREAS, the Public Works Director has, considering all the issues and with staff recommendations, given approval for the color scheme proposed by Mr. Bobby Rathi, and

WHEREAS, by letter dated June 12, 2007, Mr. Dennis McDonald filed an appeal, with the Office of the City Clerk, to the decision of the Public Works Director authorizing the use of a proposed taxicab color scheme by Mr. Bobby Rathi, and

WHEREAS, said appeal was set for a public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 10101 10th Street, Modesto, California, at 5:30 p.m. on August 8, 2007, and

WHEREAS, after said public hearing the Council found and determined that said appeal should be denied and the decision of the Public Works Director should be affirmed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Mr. Dennis McDonald to the decision of the Public Works Director authorizing the use of a proposed taxicab color scheme by Mr. Bobby Rathi is denied and the decision of the Public Works Director is hereby affirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2007, by Council member Dunbar, who moved its adoption, which motion being duly seconded by Council member Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-479

A RESOLUTION ACCEPTING A STAFF REPORT REGARDING THE ACTIVITIES AND RESPONSIBILITIES FOR MODESTO TO SERVE AS A HOST CITY FOR A STAGE START ON FEBRUARY 20, 2008, FOR THE 2008 AMGEN TOUR OF CALIFORNIA.

WHEREAS, this past February, the Amgen Tour of California swept down the California Coast for eight days generating over $100 million of economic impact to the 12 host cities and the state with over one billion marketing impressions created worldwide, and

WHEREAS, from San Francisco and Sacramento to Long Beach over 1.6 million spectators witnessed America's most important annual cycling race making it the most attended single sporting event in our state's history, and

WHEREAS, on May 22, 2007, by Resolution No. 2007-298, the City Council approved a Request for Proposal (RFP) application for the City of Modesto to apply to become a "Host City" for the third-annual Amgen Tour of California, and

WHEREAS, the Host City submission requirements were: a Statement of Interest; race operation commitment; hotel, parking and meal options; route and festival options; marketing and public relations commitment; and development of a local organizing committee, and

WHEREAS, at a meeting held on May 7, 2007, the Convention and Visitors Bureau agreed to be the lead agency in the preparation and submission of the application and staff from the City's Police, Fire, Public Works and Parks, Recreation and Neighborhoods Department provided input into the application, and

WHEREAS, on June 12, 2007, representatives from the Amgen Tour met with staff from the Convention and Visitors Bureau and the City of Modesto and route options and other logistics were presented and discussed, and additional information about Modesto's qualifications was given to the Amgen representatives, and

WHEREAS, by a letter dated July 1, 2007, the Convention and Visitors Bureau was notified that Modesto has been invited to be a host city for the stage start on Wednesday, February 20, 2008, and

WHEREAS, an agreement between the City of Modesto and Anschutz Entertainment Group (AEG) is required, and

WHEREAS, since the City's commitment will be less than $50,000, on July 23, 2007, the City Manager signed an agreement with Anschutz Entertainment Group (AEG), and

WHEREAS, as a partner of the Amgen Tour of California, a Stage Start Host City is required to provide support and assume all related costs in the areas of race operations; hotels, parking and meals; a local organizing committee; and a volunteer program as more fully described in **Exhibit "A"** attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a staff report regarding the activities and responsibilities for Modesto to serve as a Host City for a Stage Start on February 20, 2008, for the 2008 AMGEN Tour of California.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

Attest: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

HOST CITY REQUIREMENTS STAGE START

As a partner of the Amgen Tour of California, a Stage Start Host City is REQUIRED to provide the following support and assume all related costs as part of their bid submission.

RACE OPERATIONS

POLICE SERVICES - Local (City and/or County) police services and related costs are the responsibility of the host city. In coordination with California Highway Patrol (CHP), CalTrans, as well as the Tour s motor and road marshals and in conjunction with the LOC volunteer program, local police provide for a safe road closure, which may include fixed-post positions, traffic control, crowd control, enforcing no-parking zones and maintaining general public safety.

PUBLIC WORKS AND ROAD SERVICES - Local Public Works and Road Services are the responsibility of the host city. The city will absorb the cost for all services within the city limits. These services are necessary to support police efforts to ensure road closure and safety of the course. These services include:

Detours and detour equipment (ATOC will provide 2000 running feet start line fencing (1000 feet of fencing on each side of race course)
Barricades
Cones
Printing/posting of No Parking signs
Removal/restoration and street repair

PERMIT SERVICES - All fees associated with city permits and permit requirements for the operation of the event are to be procured by the host venue on behalf of the Tour. They include, but are not limited to:

Parking -both on and off street
Alcoholic beverages -consumption in public, if served at a start, from cups and cans, in a private VIP area
Road closures and use -closure and use of roads for setup and racing (includes permits for construction of staging, tents, wiring and electrical, portable generators, power equipment, and fork lift)
Special and Ancillary Events - pre-event and race day
Banners and Signs -hanging and display of pre-event, race day advertising, and sponsor banners.
Concession Sales - on-site merchandise and concession stands as requested by ATOC .

EMT/EMS SERVICES - It is the responsibility of the host venue to provide EMT/EMS services for the general public the day of the Stage Start. Please note that the Tour provides medical services for the athletes, team support and staff personnel. Placement of EMT/EMS services will be decided by the Tour s Technical Director.

RESIDENT/BUSINESS NOTIFICATIONS Host cities are responsible for notifying local residents and businesses of the impact of the tour including road closures, traffic advisories etc. Notifications should be bi-lingual, including an English and Spanish version.

PORT-O-LETS Host cities will secure port-o-let services or public restrooms during the day of the Stage Start. The number of units will be mutually agreed upon by the host venue and the Tour s Technical Director.

WASTE MANAGEMENT Host cities will provide waste management/trash removal services during the event and at the conclusion.

HOTELS, PARKING AND MEALS (STAGE START)

HOTEL ACCOMMODATIONS

Host Venues are Financially Responsible For:

START ADVANCE CREW ROOM BLOCKS - The host venue is required to provide accommodations for the Tour s start construction crew and start advance staff which consists of 100 people.

- The **hotel room commitment is 63 rooms** the night before the race stage start, with the following room configuration: 25 singles, 38 doubles rooms.
- It is most advantageous that these rooms be in no more than one (1) hotel property located close (walking distance) to the Start Line area.
- Minimum 3-Star hotel property
- It is preferred that the hotel offers a breakfast meal and also be close to full-service restaurants.

SITE VISIT/LOC MEETING ROOM BLOCK The host city is required to provide the tour with **20 hotel room nights** to be used anytime from July 1 to February 17th for site visit and LOC meetings.

MEALS

BREAKFAST MEAL - The host venue is required to provide breakfast for the start line construction crew and start advance staff (**approximately 100 people**). Breakfast will need to be served no later than 6 a.m.

- A breakfast per diem of $10 (per person) may be provided for staff in lieu of an organized breakfast (due to early hours).

PARKING REQUIREMENTS

TEAM PARKING AND STAGING AREA Requires parking for approximately 50 vehicles

VIP / STAFF EVENT PARKING Requires parking for approximately 150 vehicles adjacent to the finish-line location.

LOCAL ORGANIZING COMMITTEE (LOC)

The host venue is required to form a Local Organizing Committee that best represents the interests of the host venue and the Tour.

STRUCTURE
In order for the Amgen Tour of California (ATOC) to be successful at the local and international level, in terms of support, planning and execution in your community, the following positions are required for your host venue s LOC. Each of the positions outlined below will work directly in cooperation with their respective Tour counterpart ongoing dialogue between the Tour and the LOC is necessary and invaluable.

Chairperson
Tour Venue Director point-of-contact
- Significant community leader required for creating project support, community awareness and fundraising efforts.
- Direct point of contact for Tour Venue Director and staff liaison between TOC staff and LOC members.
- Responsible for communicating Tour plans and directives to all LOC staff members.
- Responsible for coordinating and conducting regular LOC meetings and maintaining all LOC functions based upon TOC-driven timeline.

Technical Director
In cooperation with the Tour Technical Director:
- Assist with all race operations, including, but not limited to, course markings, road closures, course maps, routing, volunteer & marshal placement, communications, venue design and construction, schedule of events, etc.
- Assist with overall conduct of events and remain in constant communication with Tour staff to ensure a properly managed and safe event
- Assist with design of Finish line layout and adjacent areas
- Assist with local police and DOT support
- Coordinate outdoor auxiliary space
- Residential Notifications
- Assist Tour officials with permit process
- Assist Tour officials with securing local vendors (i.e. port-o-johns)
- Assist with identifying a safe overnight location for vehicles and equipment
- Assist Tour officials with course entry into and departure from city limits
- Assist with identifying required parking space for required vehicles
- Assist with procurement of local EMS/EMT services

Operations Director
In cooperation with the Tour Operations Director:
- Coordinate with contracted hotels for all requirements (rooms, meals, auxiliary space)

- Secure housing/rates for additional (paid) housing groups (media, tourists)
- Assist with housing assignments, check-in/out dates for Tour entourage
- Serve as a liaison with the Tour s Official Race hotel
- Assist with transportation needs of local LOC members, volunteers, etc.

Media/Public Relations Director

In cooperation with the Tour Media/Public Relations Director:

- Assist with all local media inquiries before, during and after the race
- Assist with gathering media applications, credential information from local media
- Assist with scheduling of local press conferences, interviews, appearances, etc.
- Assist Tour with developing local media partners (print, radio, television)
- Coordinate distribution of Tour promotional materials i.e. poster, brochures, etc.
- Assist with maximizing media attendance and coverage through local press releases, telephone calls and personal contacts
- Provide LOC and venue-specific information for inclusion in Tour s collateral materials

Marketing Director

In cooperation with the Tour Marketing Director:

- Coordinate distribution of Tour promotional materials i.e. poster, brochures, etc.
- Assist Tour and LOC Media Director with developing local media partners (print, radio, television)
- Coordinate distribution of Tour promotional materials i.e. poster, brochures, etc.
- Assist Tour with developing relationships with local retailers and cycling clubs
- Provide LOC and venue-specific information for inclusion in Tour s collateral materials

Sales/Sponsorship Director

In cooperation with the Tour Sales/Sponsorship Director:

- Determine local sales (cash/VIK) goals
- Coordinate sales approach with Tour s Director of Development
- Develop proper levels of local sponsorship packages
- Coordinate fulfillment of local sponsorship benefits with Tour s Community Relations Manager

Volunteer Director

In cooperation with the Tour Volunteer Director:

- Recruit and schedule local volunteer requirements
- Develop job descriptions for local volunteer positions
- Develop volunteer recognition or incentive programs
- Coordinate volunteer needs and placement with Tour s Technical Director, LOC s Technical Director and local police/DOT officials
- Determine uniform requirements for local volunteer corps (numbers/sizes)
- Communicate work schedule to volunteer corps

- Direct daily volunteer check-in, uniform distribution and transportation to assignments
- Secure refreshments for volunteers

VIP/Hospitality Director

In cooperation with the Tour s VIP/Hospitality Director:

- Assist with Tour s Hospitality area set-up, operations, etc.
- See to all local sponsorship/sponsor needs
- Coordinate awards presenters, athlete escorts, local awards, flowers, etc. with Tour s Awards Ceremony Coordinator
- Assist with accreditation system (wristbands), including enforcement
- Distribute hospitality invitations to respective LOC guests
- See to all local sponsorship/sponsor needs

Ancillary Events/Lifestyle Festival Liaison

In cooperation with the Tour Festival Director:

- Coordinate festival-like atmosphere before, during and after Tour
- Assist with logistical and communication details regarding the coordination of local activities and Tour activities
- Assist with all aspects of Tour s Health Fair and Lifestyle Expo

School/Community Involvement Liaison

- Assist Tour with promoting and supporting the Tour of California message and objectives
- Coordinate with local bike shops and clubs the message of bike safety, helmets, etc.
- Assist Tour officials with scheduling appearances, photo ops, etc. regarding above
- Develop and implement local educational campaign regarding Tour aspects, teams/athletes, etc.
- Assistance with distribution of Tour s Educational/School Booklet
- Creation and coordination of Tour-related topics into school curriculum (ie international aspects of event)
- Coordinate participation and attendance of local school system during event

VOLUNTEER PROGRAM

The host venue will be responsible for securing and organizing local volunteers for the tour. Volunteers will assist the tour and the LOC with coordinating activities on the day of the event. Each venue will have different volunteer requirements, but the total number of volunteers is typically 150 to 200 per host venue.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-480

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF SARAH JEPPSON FROM THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, SARAH JEPPSON was appointed a member of the Golf Courses Advisory Committee, on June 13, 2006, and

WHEREAS, SARAH JEPPSON has tendered her resignation from the aforementioned committee.

NOW, THEREFORE, BE IT RESOLVED that the resignation of SARAH JEPPSON from the Golf Courses Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to SARAH JEPPSON for her service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

081407/CMO/Puckett

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-481

A RESOLUTION DECLARING SEAT HELD BY ANTHONY GONSALVES ON THE COMMUNITY QUALITIES FORUM VACANT

WHEREAS, ANTHONY GONSALVES was appointed a member of the Community Qualities Forum on June 13, 2006, and

WHEREAS, ANTHONY GONSALVES has not attended regular meetings since October 11, 2006, and

WHEREAS, Section 1105 of the Modesto City Charter states that if a member of a board or commission is absent from three (3) regular meetings, the member's office shall become vacant and shall be so declared by the City Council,

NOW, THEREFORE, BE IT RESOLVED that the seat held by ANTHONY GONSALVES on the Community Qualities Forum hereby is declared vacant.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to ANTHONY GONSALVES for his service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

081407/CMO/Puckett

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-482

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH NATIONAL DEMOGRAPHICS CORPORATION TO PROVIDE EXPERT ASSISTANCE AND ADVICE FOR THE CITY AND THE CHARTER REVIEW COMMITTEE REGARDING LOCAL AND ELECTION AND GOVERNANCE OPTIONS IN THE AMOUNT OF $20,200 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, in February 2007, the City of Modesto entered into an agreement with National Demographics Corporation (NDC) to provide expert assistance and advice for the City and the Charter Review Committee regarding local election and governance options, and

WHEREAS, the services provided under this agreement included 1) Information materials preparation, 2) Moderation services and participation in Charter Review Committee discussions or other public discussions, and 3) Review of proposed districting proposals, and

WHEREAS, the agreement with NDC was for an amount not to exceed $25,000, and

WHEREAS, to date, NDC has provided services to the City in the amount of $13,700 which leaves $11,300 remaining on the contract, and

WHEREAS, on June 26, 2007, the Charter Review Committee presented an interim report to the Council recommending that an advisory vote on the method of electing city Councilmembers be included on the November 2007 Election, and

WHEREAS, the committee recommended that public outreach and education efforts be made to inform the community on the two election methodologies that will be placed on the ballot, and

WHEREAS, the additional services to be provided by NDC are estimated to cost $31,500 and the original contract has a remaining available balance of $11,300 and $20,200 is needed to provide sufficient funds for their work on the Public Outreach and Education Effort,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and National Demographics Corporation is amended by the amount of $20,200 for a new agreement total of $31,500.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-483

APPROVING THE EXPENDITURE OF FUNDS FOR PUBLIC OUTREACH UTILITY BILL INSERT PRINTING, UTILITY INSERT POSTAGE COSTS, AND SIMULTANEOUS SPANISH TRANSLATION SERVICES IN THE AMOUNT OF $12,625.

WHEREAS, $12,625 is needed to cover 1) the costs of postage and printing of the informational document that will be mailed out to residents with the utility bills and 2) the cost of providing simultaneous Spanish translation at three public forums,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the expenditure of $12,625 is authorized to be spent on the cost of postage and printing the informational document that will be mailed out to residents with the utility bills and 2) the cost of providing simultaneous Spanish translation at three public forums.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-483A

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 ANNUAL OPERATING BUDGET TO APPROPRIATE $34,825 FROM 0100-800-8000-8003 GENERAL FUND RESERVE TO 0100-010-0101-0235 CITY COUNCIL TO FUND AN AMENDMENT TO THE AGREEMENT WITH NATIONAL DEMOGRAPHICS CORPORATON (NDC) ($20,200), DOCUMENT PRINTING ($2,000), POSTAGE COSTS ($9,625), AND SIMULTANEOUS SPANISH TRANSLATION SERVICES AT THREE PUBLIC FORUMS ($3,000).

WHEREAS, the City of Modesto has determined it is desirable to provide public outreach and education efforts prior to the advisory vote in November 2007 on the method of electing city councilmembers, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2007-2008 Annual Operating Budget to fund an amendment to the agreement with NDC ($20,200), document printing ($2,000), postage costs ($9,625), and simultaneous Spanish translation services at three public forums ($1,000).

Account	Adjustment	Description
0100-800-8000-8003	($32,825.00)	General Fund Reserve
0100-010-0101-0235	$32,825.00	City Council

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Keating who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ACALA WOOD, City Attorney

APPROVED AS TO SUFFICIENCY:

By _____
M. WAYNE PADILLA, Director of Finance

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-484

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO OF INTENTION TO ESTABLISH CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-2 (KIERNAN BUSINESS PARK WEST) ("CFD 2007-2') AND AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN

WHEREAS, an owner of not less than 10 percent of the area of land proposed to be included within the community facilities district herein described has filed with the City Clerk of this City (the "City") a petition requesting that this Council (the "Council") form a community facilities district pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act") in order to: (i) finance certain public facilities having a useful life of 5 years or longer (the "Facilities"), including expenses incidental thereto; and (ii) finance certain services (the "Services") more particularly described in **Exhibit B**; and

WHEREAS, upon receipt of the petition, this Council is, pursuant to Section 53320 of the California Government Code, required to adopt a resolution of intention to establish the community facilities district; and

WHEREAS, this Council has adopted local goals and policies concerning the use of the Act;

NOW, THEREFORE, BE IT RESOLVED, ORDERED, AND FOUND by the City Council of the City of Modesto that:

SECTION 1. The above recitals are true and correct.

SECTION 2. A community facilities district is proposed to be established under the terms of the Act. The name proposed for the community facilities district is "City of Modesto Community Facilities District No. 2007-2 (Kiernan Business ParkWest) and is referred to in this Resolution as the "District."

SECTION 3. The boundaries of the District are shown on a map, hereby approved, entitled "Proposed Boundaries of City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) of the City of Modesto, County of Stanislaus, State of California," a copy of which is on file in the office of the City Clerk. Pursuant to Sections 3110 and 3111 of the California Streets and Highways Code, the City Clerk shall certify on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in the City Clerk's office and, within 15 days after the adoption of this Resolution and in no event later than 15 days prior to the date of the public hearing referred to in Section 8, file a copy of the map with the County Recorder of the County of Stanislaus.

The Council finds that no land proposed to be included in the District is devoted primarily to agricultural, timber, or livestock uses and being used for the commercial production of agricultural, timber or livestock products.

SECTION 4. The Facilities proposed to be provided by the District are public facilities authorized to be acquired or constructed under the Act that have a useful life of five (5) years or longer. The Facilities are governmental facilities which the Council is authorized by law to contribute revenue to, or construct, own or operate; or which a local public agency is authorized by law to provide. The Council further determines that such Facilities are necessary to meet increased demands placed upon the City and other local agencies as a result of development occurring within the boundaries of the District.

The Facilities are proposed to include any and all incidental expenses related thereto, as authorized by the Act, including the payment in full of all amounts necessary to eliminate any fixed special assessment liens or to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee, charge, or assessment levied within the area of the District or to pay debt service on that indebtedness.

The Services proposed to be provided by the District are in addition to those provided in the District before its creation, since none of the Services have been or will be provided in the District before its creation.

SECTION 5. The Council determines that the public interest will not be served by allowing the owner(s) of property within the proposed District to enter into a contract pursuant to Section #53329.5(a) of the Act.

SECTION 6. (a) It is the intention of the Council that, except where funds are otherwise available to pay for the Facilities to be financed by the District, the incidental expenses related thereto, and the Services, special taxes sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied annually within the boundaries of the District. The rate, method of apportionment and manner of collection of the proposed special taxes is set forth in **Exhibit A.** Exhibit A provides sufficient detail to allow each landowner or resident within the District to estimate the maximum amount that such person will have to pay for the Facilities and the Services.

(b) In the case of the special tax to pay for the Facilities that is to be levied against any parcel of land used for private residential purposes (as defined and provided in the Act), (1) the maximum special tax has been specified as a dollar amount which will be calculated and thereby established not later than the date of which any such parcel of land is first subject to the special tax because of its use for private residential purposes, and which amount will not be increased over time by an amount exceeding two per cent (2%) per year, (2) after Fiscal Year 2037-2038, the special tax will no longer be levied or collected against any such parcel of land, and (3) under no circumstances will the special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels of land within the District by more than ten per cent (10%). The special tax to pay for the Facilities may, however, establish different tax rates for different categories of residential property, and may provide for a change in the dollar

amount of the special tax for the parcel if the size of the residence is increased or if the size or use of the parcel is changed.

(c) The obligation to pay the special tax to pay for the Facilities may be prepaid and permanently satisfied, and the lien of the special tax to pay for the Facilities discharged pursuant to the procedures set forth in Exhibit A.

(d) If the special tax to pay for the Facilities is prepaid and permanently satisfied as to a particular parcel of land, this Council shall cause to be prepared and recorded in the office of the County Recorder of the County of Stanislaus, which shall accept for recordation, a Notice of Cancellation of Special Tax Lien as to that parcel. The Notice of Cancellation of Special Tax Lien shall identify with particularity the special tax to pay for the Facilities which has been prepaid and permanently satisfied, state the book and page number in the records of the County Recorder where the Notice of Special Tax Lien being cancelled is recorded, contain the legal description and assessor's parcel number of the particular parcel of land subject to the lien, and contain the name of the owner of record of the parcel. The County Recorder shall mail the original Notice of Cancellation of Special Tax Lien to the owner of the property after recording the document. This Council may specify a charge for the preparation and recordation of the Notice.

SECTION 7. Pursuant to Section 53314.9 of the Act, this Council may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work-in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the District.

SECTION 8. A public hearing on the establishment of the District and the proposed rate, method of apportionment, and manner of collection of the special taxes shall be held at 6:00 p.m., or as soon thereafter as practicable, on Tuesday, September 25, 2007, at the

regular meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353, such time being not less than 30 or more than 60 days following the adoption hereof.

SECTION 9. The Public Works Director, as the officer of the City who will be responsible for providing the proposed Facilities and Services to be financed by the District, if it is established, is directed to study the proposed District, and, at or before the time of the hearing, cause to be prepared and filed with the Council a report containing: (a) a brief description of the Facilities and Services by type which will in such officer's opinion be required to adequately meet the needs of the District; (b) an estimate of: (i) the cost of providing the Facilities and Services; (ii) the fair and reasonable cost of any of the Facilities to be purchased; and (iii) the fair and reasonable cost of incidental expenses to be incurred in connection therewith, including the costs of the proposed bond financing and other related costs as provided in Section 53345.3 of the Act.

The report shall be made a part of the record of the hearing.

SECTION 10. At the time and place set forth in this Resolution for the hearing, any interested persons, including taxpayers, property owners and registered voters residing within the boundaries of the proposed District, may appear and be heard, and the testimony of all interested persons for or against the establishment of the District, the extent of the District, the furnishing of the Facilities and Services, or the proposed rate, method of apportionment and manner of collection of the special taxes will be heard and considered. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.

SECTION 11. The City Clerk is directed to publish a notice of the hearing, in the form required by the Act, not later than seven (7) days prior thereto, in a newspaper of general circulation published in the area of the District, being *The Modesto Bee*, and otherwise in accordance with Section 6061 of the California Government Code.

SECTION 12. (a) If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the territory proposed to be included in the District, or the owners of one-half (1/2) or more of the area of the land in the territory proposed to be included in the District and not exempt from the special taxes, file written protests against the establishment of the District, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to create the District or to levy the special taxes will be taken for a period of one year from the date of the decision of the Council.

(b) If the majority protests of the registered voters or the landowners are only against the furnishing of a specified type or types of the Facilities or Services within the District, or against levying a specified special tax, those types of Facilities or Services or the specified special tax will be eliminated from the District proceedings.

(c) At the conclusion of the hearing, if the Council determines to establish the District, it will adopt a resolution of formation and then submit the levy of the special taxes to the qualified electors of the District in a special election.

SECTION 13. (a) If, after the hearing, the Council adopts a resolution of formation establishing the District and submits the levy of the special taxes to the qualified electors of the District in a special election, such election will be held at least ninety (90) days, but not more than one hundred eighty (180) days following the adoption of the resolution of formation. The City Clerk shall, within three business days after the adoption of the resolution of formation, provide a copy of the resolution of formation, a certified map of sufficient scale

and clarity to show the boundaries of the District, and a sufficient description to allow the election official to determine the boundaries of the District, to the official conducting the election. Assessor's parcel numbers for the land within the District shall be included if it is a landowner election or the District does not conform to an existing district's boundaries and if requested by the official conducting the election.

(b) If the election is to be held less than one hundred twenty-five (125) days after the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required.

(c) Such time limits, or requirement pertaining to the conduct of the election, may be waived with the unanimous consent of the qualified electors of the District and the concurrence of the election official conducting the election.

(e) If at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the territory of the proposed District for each of the ninety (90) days preceding the close of the hearing, the vote will be by the registered voters of the proposed District, with each voter having one vote. Otherwise, the vote will be by the landowners of the proposed District and each landowner who is the owner of record at the close of the hearing, or the authorized representative thereof, will have one (1) vote for each acre or portion of an acre of land that such landowner owns within the proposed District. The number of votes to be voted by a particular landowner will be specified on the ballot provided to that landowner.

(f) Ballots for the special election authorized may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing or personal delivery of ballots by an affidavit, which shall constitute conclusive proof of such mailing or personal delivery in the absence of fraud. The voted ballots shall be returned to the election officer conducting the

election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

(g) Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election. Except as provided in the next sentence, there will be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in the California Elections Code. If the vote is to be by the landowners of the proposed District, analysis and arguments may be waived with the unanimous consent of all the landowners.

If the election is to be conducted by mail ballot, the election official conducting the election shall provide ballots and election materials, together with all supplies and instructions necessary for the use and return of the ballot. The identification envelope for return of mail ballots used in a landowner election shall contain the following: (1) the name of the landowner; (2) the address of the landowner; (3) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope; (4) the printed name and signature of the voter; (5) the address of the voter; (6) the date of signing and the place of execution of the declaration described in (3) above; and (7) a notice that the envelope contains an official ballot and will be opened only by the canvassing board.

(h) The procedures set forth in this Section for conducting the consolidated special election may be modified as the Council may determine to be necessary or desirable by a resolution subsequently adopted by the Council.

SECTION 14. This Council may, by ordinance, authorize contributions by the City from any sources of revenue not otherwise prohibited by law, of any specified amount, portion or percentage of such revenue for any of the following: (1) acquiring or constructing any of the Facilities; (2) the acquisition of interests in real property; (3) paying debt service with

respect to the financing of any such acquisition or construction; (4) providing the authorized Services; and (5) the payment of expenses incidental to any of the foregoing.

SECTION 15. This Council reserves to itself the right and authority to allow any interested owner of property within the District, subject to the provisions of Section 53344.1 of the Act and to those conditions it may impose, and any applicable prepayment penalties as described in the bond indenture or comparable instrument or document, to tender in full payment or part payment of any installment of the special tax levied to pay for the Facilities or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Attachment "A"

CFD 2007-2 (Kiernan Business Park West)
Rate & Method of Apportionment

Attachment "A"

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-2
(KIERNAN WEST)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2007-2 (Kiernan West) [herein "CFD No. 2007-2" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-2, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-2 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-2, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

"Annual Maintenance Special Tax Requirement" means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2007-2.

"CFD Formation" means the date on which the Resolution of Formation to form CFD No. 2007-2 was adopted by the City Council.

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-2.

"County" means the County of Stanislaus.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a structure. The term "Final Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"**Maximum Annual Maintenance Special Tax**" means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"**Maximum One-Time Facilities Special Tax**" means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Special Taxes" means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

"Net Taxable Acreage" or **"Net Taxable Acre"** means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that

fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"One-Time Facilities Special Tax" means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

"Original Parcel" means an Assessor's Parcel included in CFD No. 2007-2 at the time of CFD Formation or added to the CFD upon annexation. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

"Proportionately" means that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Taxable Property.

"Public Property" means any property within the boundaries of CFD No. 2007-2 that is owned by the federal government, State of California, County, City, or other public agency.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

"Subdivision Map" means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a structure is permitted.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2007-2 which are not exempt from the Special Tax pursuant to law or Section G below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-2 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall determine (i) the current Assessor's Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-2, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

C. MAXIMUM SPECIAL TAXES

1. Original Parcels

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

TABLE 1
MAXIMUM SPECIAL TAXES
FISCAL YEAR 2007-08

Assessor's Parcel Number	*Fiscal Year 2007-08 Maximum One-Time Facilities Special Tax**	*Fiscal Year 2007-08 Maximum Annual Maintenance Special Tax**
078-013-006	$ 74,511	$ 2,539
078-013-018	$ 5,771	$ 197
078-013-035	$ 0	$ 93,880
078-013-037	$ 166,233	$ 5,665
078-013-040	$ 153,660	$ 28,318

** Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.*

2. Successor Parcels

Upon recordation of a Subdivision Map that subdivides an Original Parcel, the Administrator shall allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels by applying the following steps:

Step 1: Determine the total combined Net Taxable Acreage within all Successor Parcels created from subdivision or reconfiguration of the Original Parcel.

Step 2: Divide the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the Net Taxable Acreage determined in Step 1 to determine a Maximum One-Time Facilities Special Tax and a Maximum Annual Maintenance Special Tax per Net Taxable Acre.

Step 3: Multiply the Maximum Special Taxes per Net Taxable Acre determined in Step 2 by the Net Taxable Acreage of each Successor Parcel of Taxable Property to determine the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Original Parcel's Maximum Special Tax shown in Table 1, escalated to the current Fiscal Year pursuant to Section D below.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2008 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be increased by an amount equal to four percent (4.0%) of the amount in effect for the prior Fiscal Year. Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Annual Maintenance Special Tax

Beginning in January 2008 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2007-2 and shall be collected as set forth in Section F below.

2. Annual Maintenance Special Tax

Each Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Taxable Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year.

Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any structure on Taxable Property within CFD No. 2007-2, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2007-2 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Maintenance Special Taxes through foreclosure or other available methods. The Annual Maintenance Special Tax shall be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services and all Administrative Expenses have been reimbursed.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property except Taxable Public Property, as defined herein.

H. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.

I. ENFORCEMENT

All delinquent One-Time Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1.5 % as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

TABLE 1

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-2
(Kiernan West)

MAINTENANCE COST ESTIMATES AND PARCEL INFORMATION
(ALL FIGURES IN 2007 DOLLARS)

Cost Estimates	
Annual Maintenance Costs - All Parcels	
Landscape Maintenance	$16,000
Annual CFD Administration Costs	$15,000
Total Annual Costs to be Funded by All Parcels in the CFD	$31,000
Annual Maintenance Costs - Leapin Lizards and Kaiser	
Storm Drainage Maintenance	$99,600
Total Annual Costs to be Funded by Leapin Lizards and Kaiser	$99,600
Total Annual Costs to be Funded by the CFD	**$130,600**

Parcel Numbers and Acreage	
Area in Initial CFD Boundaries	
APN	**Acreage**
078-013-006	7.23
078-013-018	0.56
078-013-035	49.43
078-013-037	16.13
078-013-040	14.91
Total CFD Acreage	**88.26**

TABLE 2

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-2
(Kiernan West)

CALCULATION OF MAXIMUM SPECIAL TAXES
(ALL FIGURES IN 2007 DOLLARS)

Annual Costs to be Funded by All Parcels at CFD Formation	
Total Annual Costs to be Funded by All Parcels	$31,000
Acreage of All Parcels Included in Initial CFD Boundaries	88.26
Maximum Annual Maintenance Special Tax per Acre	$351.23
Annual Costs to be Funded by Leapin Lizards and Kaiser	
Total Annual Costs to be Funded by Leapin Lizards and Kaiser	$99,600
Acreage of Leapin Lizards and Kaiser Parcels	64.34
Maximum Annual Maintenance Special Tax per Acre	$1,548.03

Maximum Annual Special Taxes

APN	Acreage	Maximum Annual Maint. Special Tax
Leapin Lizards		
078-013-040	14.91	$28,318
Bridges		
078-013-006	7.23	$2,539
078-013-037	16.13	$5,665
Subtotal	23.36	
Other		
078-013-018	0.56	$197
Kaiser		
078-013-035	49.43	$93,880
Total	88.26	$130,600

Maximum One-Time Special Taxes

APN	Acreage	Share of Kaiser Improvements /1	Admin Costs	Maximum One-Time Special Tax
Leapin Lizards				
078-013-040	14.91	$151,740	$1,920	$153,660
Bridges				
078-013-006	7.23	$73,580	$931	$74,511
078-013-037	16.13	$164,156	$2,077	$166,233
Subtotal	23.36	$237,736	$3,008	
Other				
078-013-018	0.56	$5,699	$72	$5,771
Kaiser				
078-013-035	49.43	$0	$0	$0
Total	88.26	$395,175	$5,000	

/1 Determined by the City of Modesto.

Attachment "B"

CFD 2007-2 (Kiernan Business Park West)
List of Facilities & Services

Attachment "B

LIST OF FACILITIES

The facilities described below are all facilities which the City of Modesto Community Facilities District No. 2007-2 is authorized to finance.

- Dale Road (Principle Arterial) between Kiernane Ave. and Pelandale Ave. This road segment includes a landscaped median and a landscaped parkway strip.
- Healthcare Way between Dale Road. andwestern edge of Kaise facility. This road segment includes a landscaped median.
- Bangs Avenue from Dale Road to American Avenue This road segment includes a landscaped median and a landscaped parkway strip.
-

LIST OF SERVICES

Included in City of Modesto CFD No. 2007- is the maintenance of the landscaping on Dale Road, Healthcare Way and the bike path, as well as the well site. In addition, the maintenance of a storm drainage pump and basin is also included.

Exhibit "B"

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-2
(KIERNAN BUSINESS PARK WEST)

DESCRIPTION OF AUTHORIZED SERVICES AND FACILITIES TO BE FUNDED BY COMMUNITY FACILITIES DISTRICT NO. 2007-2

The authorized services to be funded by special tax revenues include maintenance and repair of parkways, landscaped medians, the bike path, well site, storm drainage pump and basin, and related facilities, including but not limited to, concrete curbs and walks, trees, shrubs, vines, ground cover, turf, lights and irrigation systems. The services to be provided include, but are not limited to, litter and debris removal, graffiti abatement, painting repairs to landscape structures, pruning, staking, fertilizing, plant replacement and restoration, fire and weed control, erosion control, mowing of lawns, trimming of vegetation, and maintenance, repair and replacement of lighting systems.

The facilities described below are the facilities which the CFD is authorized to fund:

- Dale Road between Kiernan Ave. and Pelandale Ave. This road segment includes a landscaped median and a landscaped parkway strip.
- Healthcare Way between Dale Road and the western edge of the Kaiser facility. This road segment includes a landscaped median.
- Bangs Avenue from Dale Road to American Avenue. This road segment includes a landscaped median and a landscaped parkway strip.

The installation of authorized facilities may, but will not necessarily include, concrete curbs and walks, trees, shrubs, ground cover, lights, and irrigation systems.

The District may also fund any of the following: (i) administrative fees of the City related to the District, including costs associated with preparing the annual special tax levy, or (ii) costs associated with legal services, advertising, legal notices, and mailings related to formation or administration of the District.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-485

A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR THE FAIRVIEW SPECIFIC PLAN AMENDMENT BETWEEN THE CITY OF MODESTO AND BAVA VILLAS, LP, A CALIFORNIA LIMITED PARTNERSHIP, FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT, FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE FAIRVIEW SPECIFIC PLAN AREA, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Bava Villas, LP, a California Limited Partnership (the "Applicant"), has agreed to advance all funds necessary to prepare an Environmental Impact Report, ("EIR"), Facilities Master Plan and Infrastructure Finance Plan ("FMP/IFP") and for formation of a Community Facilities District ("CFD") for the Fairview Specific Plan Area, and

WHEREAS, the parties agreed to enter into an Advanced Funding Agreement for the Fairview Specific Plan Amendment by and between the City and the Applicant relating to advances made and to be made by the Applicant to the City, and providing for potential reimbursement to the Applicant if and when certain funds from the Fairview Village CFD become available, a copy of which is attached hereto as **Exhibit A** and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Advanced Funding Agreement For The Fairview Specific Plan Amendment between the City of Modesto and Bava Villas, LP, a California Limited Partnership, is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ADVANCED FUNDING AGREEMENT
FOR FAIRVIEW SPECIFIC PLAN AMENDMENT

THIS ADVANCED FUNDING AGREEMENT FOR FAIRVIEW SPECIFIC PLAN AMENDMENT ("Agreement") is made and entered into as of the ___ day of August, 2007 ("Effective Date"), by and between the CITY OF MODESTO, a California municipal corporation ("City"), and BAVA VILLAS, L.P., a California limited partnership ("Applicant").

RECITALS:

A. Applicant has the right to acquire ownership interests in real property located within a portion of the Fairview Specific Plan Area ("Specific Plan"), shown in **Exhibit A** attached hereto and incorporated herein by this reference, and is interested in pursuing development of properties in the Specific Plan.

B. Applicant is in the process of preparing an Amendment to the Specific Plan ("Amendment") and has requested that the City review and process the proposed Amendment, prepare a Facilities Master Plan, Finance Plan, and appropriate CEQA documentation for the Amendment ("Planning Documents") and create an appropriate financing mechanism, such as, but not limited to, a communities facilities district ("Financing Mechanism") for the principal purpose of master planning the development and financing the various public facilities which are necessary to serve or desirable for the development of the Specific Plan (collectively the "Project").

C. City has either retained, or will retain, outside consultants, to assist it with the Project and, if the City determines to proceed with the formation of one or more Financing Mechanisms, to assist it in connection therewith and with the possible issuance of bonds.

D. Subject to the terms and conditions of this Agreement, Applicant is prepared to deposit with the City the amounts needed to fund all work necessary to process the Project, including without limitation all consultant costs, staff time and expenses, in order to provide the City with a source of funds with which to pay expenses expected to be incurred in connection with the Project. City and Applicant desire that the funding for this work be provided in increments, over time as the Project progresses, with additional deposits to be provided as needed and as described in this Agreement.

E. The City and Applicant are desirous of entering into this Agreement in order to provide monies for the City's costs for preparing the Project on a time and materials basis, to provide mechanisms by which the funds deposited under this Agreement shall be applied and by which Applicant may make additional deposits under the terms and conditions specified herein, to reimburse the Applicant for monies advanced for the benefit of other landowners in the Specific Plan and to refund to Applicant sums deposited by it or on its behalf hereunder which are not applied as contemplated hereby.

F. Pursuant to California Government Code Section 53314.9 and the City's CFD Policies and Procedures, the City Council of the City is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred in connection with the construction of infrastructure and the planning and formation of a community facilities district. The City Council of the City is also authorized to enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind to repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value of the work-in-kind provided that certain conditions are met. The conditions to be satisfied with respect to funds advanced require that (1) the proposal to repay the funds or to pay the cost or value of the work-in-kind must be included in the resolution of intention for the proposed community facilities district and in the resolution of formation for the proposed community facilities district, (2) any proposed special tax is approved by the qualified electors of the community facilities district and, if a proposed special tax is not approved, any funds advanced which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

G. Pursuant to California Government Code Section 65456 and Modesto Municipal Code Sections 10-4.101, et seq., the City Council of the City is also authorized to adopt a specific plan fee to cover the cost of developing a specific plan, to charge a specific plan fee to those persons who benefit from the specific plan, and to reimburse those persons, including the City, who have provided funds to prepare the specific plan and related documentation.

H. The City and the Applicant are desirous of entering into this Agreement in accordance with Government Code Sections 53314.9 and 65456, Modesto Municipal Code Sections 10-4.101, et seq., and the City's CFD Policies and Procedures in order to provide a mechanism by which the Applicant may advance funds for the Project, make additional deposits if determined necessary by both parties hereto and in accordance with the terms hereof and, when and if a Financing Mechanism is created and proceeds are available, the City and/or the Financing Mechanism can reimburse the Applicant for the amounts advanced by the Applicant.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.

2. Proposed Preparation of the Planning Documents and Creation of the Financing Mechanism.

(a) Applicant agrees to pay all costs of reviewing, processing and approving the Amendment, preparing the Planning Documents and creating a Financing Mechanism for the Specific Plan so long as City consults with Applicant regarding all cost estimates in advance of their execution or adoption.

(b) This Agreement shall not become effective until City Council approves it, which approval shall occur on or before August 15, 2007 (the "Agreement Approval"). On the express condition that the foregoing Agreement Approval timely occurs, Applicant has deposited the sum of $38,052.00 ("Formal Deposit") with City to be held in trust by the City and used solely for the purposes set forth in this Agreement. City and Applicant acknowledge that Applicant has already paid $38,052.00 toward the costs of reviewing, processing and approving the Project documents and, therefore, City has already proceeded with the Project on a time and materials basis. In connection therewith, the City has either retained, or will retain, the consultants that the City determines necessary or convenient to assist it with the Project and, if the City determines to proceed with the formation of one or more Financing Mechanisms, to assist it in connection therewith and with the possible issuance of bonds.

(c) After the Formal Deposit has been expended on the Project, Applicant shall make additional advances to the City, as provided by subparagraph (d), below, until the Project has been completed or terminated, and all costs associated with the Project have been fully paid.

(d) Applicant shall make additional advances to the City within ten (10) business days following receipt from the City of a request for an additional advance to cover the costs referred to herein.. In the event that the Applicant does not deliver any amount requested by the City within such ten (10) business day period, the City will have no obligation to proceed with any activity relating to the Project until such time as the sum so requested is delivered to the City by or on behalf of Applicant; provided, however, that if such sum is not delivered to City within sixty (60) calendar days after a request for an additional advance is made, then City may terminate this Agreement and shall have no further obligation to proceed with any activity related to the Project. The Applicant may notify the City at any time, in writing, of its intention to abandon the Project. Immediately upon City's receipt of such notice, but in no case later than two (2) business days thereafter, the City shall instruct in writing its consultants to cease work immediately. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor in accordance with any cost estimates relating to the Project until City issues this cease work notice. Within twenty (20) working days after receipt of Applicant's notice to abandon the Project, City shall return to Applicant any and all sums previously deposited with City pursuant hereto which have not then been expended in accordance with the terms of this Agreement, as set forth in Paragraph 4(c) hereof.

(e) Applicant agrees that, notwithstanding the Applicant's funding and reimbursement obligations under this Agreement, the consultants selected by the City shall be the contractors exclusively of the City and not of the Applicant. Except for those disclosures required by law including, without limitation, the Public Records Act, all conversations, notes, memoranda, correspondence, and other forms of communication by and between the City and its consultants shall be, to the extent permissible by law, privileged and confidential and not subject to disclosure to the Applicant. Applicant agrees that it shall have no claim to, nor shall it assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work product produced by City's consultants. Applicant understands that it will not be a third party beneficiary to City's contracts with the consultants. City will consult with Applicant prior to replacing its current consultants and shall only replace its current consultants for cause; however, Applicant agrees that City may select other consultants to replace its current consultants and may do so without obtaining Applicant's approval.

3. City and Applicant to Cooperate with each other and with the City's Consultants.

(a) City and Applicant shall work cooperatively and in good faith to facilitate completion of the Project as quickly as possible and in the most cost effective way. City and Applicant shall meet and consult on dates and times as may be mutually agreed upon to discuss the progress and any key issues involved in the Project; provided, however, that Applicant's role is advisory only and City shall control all aspects of the Project. The final work product to be produced by City's Consultants shall be subject to the City's approval and control.

(b) City shall prepare a tentative timeline of processing steps through adoption of the Specific Plan, posting of CEQA notices, and potential annexation by the Stanislaus County LAFCO ("Project Schedule"). The Project Schedule shall be prepared in consultation with the Applicant and completed by February 13, 2009 with the understanding that a failure to timely complete the Project Schedule shall entitle Applicant to terminate this Agreement and its participation in the Project, in accordance with Paragraph 2(d) hereof. City and Applicant shall use reasonable efforts to process Applicant's application in accordance with the Project Schedule. Applicant acknowledges that changes to the Project, delays in resolving infrastructure issues or obtaining information necessary to process the application, the public comment process and other issues beyond the City's control may result in delays to the Project Schedule.

(c) City and Applicant shall establish a Specific Plan Development Team that regularly shall meet in person or teleconference to coordinate the work contemplated by this Agreement. City's team members shall include at least one representative from all necessary City departments.

(d) City and Applicant shall each appoint one team leader. The City's development team leader shall coordinate the City's various departments in their interaction with the Applicant's development team. The Applicant's development team leader shall coordinate the Applicant's team in its interaction with the City's development team and shall ensure Applicant's team timely makes any decisions necessary to move the Project to hearing. City and

Applicant hereby acknowledge that Jim Bissell of Harris & Associates has been hired to act as City's team leader and agree that his functions, among others, shall include adherence to the Project Schedule.

(e) City and Applicant agree that water, wastewater, and storm water infrastructure issues are critical to timely moving the Project to hearing and to ensure the economic viability of the Project. The parties agree to work on these issues in a manner sufficient to ensure that CEQA review of the Project is not unduly delayed, and that the magnitude of infrastructure costs are identified as early in the process as practical.

(f) Prior to making any final decisions regarding the scope of work of any contract or consultant, City will provide the proposed scope of work to the Applicant for review and comment.

(g) Each party shall timely review documents and provide comments so that the Project Schedule can be maintained.

(h) Prior to making any final decisions regarding adoption of the proposed Amendment, the Planning Documents or Financing Mechanism, if any, City will send a draft of the proposed document to Applicant for review and comment.

(i) Applicant agrees to cooperate in good faith with the City's consultants. Applicant agrees that it will instruct its agents, employees, consultants, contractors and attorneys to reasonably cooperate with the City's consultants and to provide all necessary documents or information reasonably requested of it by the City's consultants that are in Applicant's possession or under its control; provided, however, that the foregoing shall not require the disclosure of any documents or information of the Applicant which by law is privileged, proprietary, confidential, or exempt from disclosure under the Public Records Act. City agrees to pursue the Project in good faith, consistent with the Project Schedule and cost estimates, and, in general, to cooperate in good faith with the Applicant and its consultants. City agrees that it will instruct its agents, employees, consultants, contractors and attorneys to reasonably cooperate with Applicant.

4. Reimbursement and Refund Procedure.

(a) If a Financing Mechanism is created, including but not limited to formation of a CFD and issuance of bonds, proceeds in excess of the amount reasonably determined by the City to be required in order to administer the Financing Mechanism and to satisfy the requirements of the City's policies and procedures, including but not limited to City's CFD Policies and Procedures with respect to capitalized interest and reserves, and to pay for facilities and incidental expenses, may be used to reimburse the Applicant for the amounts that the Applicant has advanced to the City in connection with this Agreement. City shall pay interest on any monies to be reimbursed to Applicant through the Financing Mechanism, to the extent legally permissible, with the calculation of such interest to commence as of the date upon which Applicant first advances funds hereunder and to continue through and including the date upon which all sums subject to such reimbursement are paid in full.

(b) In the event that the Planning Documents are not prepared or approved and/or a Financing Mechanism is not created for any reason, or in the event that a Financing Mechanism is created but no revenue stream is generated for any reason (each, a "Reimbursement Event"), the City shall refund any funds which have been advanced by the Applicant pursuant to this Agreement and which have not been expended, obligated or otherwise committed in good faith for any authorized purpose, subject to the complete reimbursement to the City of all of its direct and indirect costs. Such refund of funds to Applicant shall occur within twenty (20) working days immediately following occurrence of the first Reimbursement Event. If requested in writing and in advance by the applicant, such refund shall be accompanied by an itemized reconciliation of amounts so deposited against sums expended by or on behalf of City. If the amounts advanced by the Applicant are insufficient to fully reimburse the City for all of such direct and indirect costs incurred by it, the Applicant shall pay to the City the amount of the deficiency within ten (10) days after receipt of a demand by City. Except as specified in Section 4(a) hereof, City shall not be required to pay interest on any amount required to be refunded pursuant to this Agreement. The City shall be entitled to pay any refund or reimbursement required pursuant to the provisions hereof to the entity that is the signatory to this Agreement irrespective of any changes in the ownership of the property or the organization of the Applicant.

(c) If Applicant notifies City of its intent to abandon or terminate this Agreement for any reason, then immediately upon City's receipt of such notice but in no case later than two (2) business days thereafter, the City shall instruct in writing its consultants to cease work immediately. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor in accordance with any cost estimates relating to the Project until City issues this cease work notice. Within twenty (20) working days after receipt of Applicant's notice to abandon or terminate this Agreement, City shall refund to Applicant any and all sums previously deposited with City pursuant hereto which have not then been expended in accordance with the terms of this Agreement. If Applicant so requests, in writing and in advance, City shall also provide Applicant with an itemized reconciliation of amounts so deposited against sums expended.

5. Abandonment of the Project. The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to review, process, prepare or approve the proposed Amendment, Planning Documents and Financing Mechanism shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to review, process, prepare or approve the proposed Amendment, Planning Documents or Financing Mechanism. Except as specified in Section 4(b) hereof, the City shall have no liability to Applicant for a decision not to review, process, prepare or approve the proposed Amendment, Planning Documents or Financing Mechanism.

6. Indemnification and Hold Harmless. The Applicant hereby assumes the defense of, and shall indemnify and save harmless, the City and each of its officers, directors, agents, contractors, and employees, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of or arising out of any acts or omissions of Applicant or any of the Applicant's officers, employees, contractors and

agents in connection with the proposed review, processing, preparation or approval of the proposed Amendment, Planning Documents and/or creation of a Financing Mechanism provided by or on behalf of the Applicant or its consultants, except for any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

7. Notices. Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

Applicant:	Bava Villas, L.P. 1783 Hester Avenue San Jose, California 95125 Attention: Mr. Todd Erickson
With a copy to:	Mr. Robert N. Kurrasch 16644 Calneva Drive Encino, California 91436
	Mr. George A. Petrulakis Petrulakis Jensen & Friedrich, LLP 1130 12th Street, Suite B Modesto, CA 95354
City:	City of Modesto 1010 Tenth Street, Suite 6100 Modesto, California 95353 Attention: IFP Administrative Officer

8. Assignment. Neither party hereto shall assign all or any part of its interest in this Agreement without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld. Any assignment or attempt to assign this Agreement shall be deemed null and void as of the date of the purported assignment. All covenants, stipulations, and agreements in this Agreement shall bind any such representatives, successors and assigns.

9. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

10. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded

except to the extent that they have been expressly incorporated into this Agreement. No future waiver of, or exception to, any of the terms, conditions, and/or provisions of this Agreement shall be considered valid unless specifically agreed to in writing by both parties.

11. Amendments. This Agreement may be amended or modified only by written instrument signed by both parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

12. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

13. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City (and its officers, directors, employees and agents providing services under this Agreement) and the Applicant (and its officers, managers, employees, and agents), any rights, remedies, obligations or liabilities under or by reason of this Agreement.

14. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine and neuter.

15. Termination. This Agreement shall terminate and be of no further force and effect on and after the third anniversary of the Effective Date of this Agreement unless expressly amended by the parties; provided, however, that the (a) Applicant's obligations under (i) Section 4(b) to reimburse expenses incurred by the City in good faith through and including the effective date of this Agreement's termination shall continue only until any such required reimbursements (if any) occur and (ii) Section 7 to provide specified indemnities shall continue only until all applicable statutes of limitations expire and (b) the City's obligation to (i) provide reimbursement for expenses incurred prior to the termination date shall survive termination or expiration of this Agreement.

16. Time is of the Essence. Except as otherwise expressly stated, time is of the essence in the performance of each and every action required pursuant to this Agreement.

17. Language Construction. The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

18. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party=s execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

19. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and Applicant or its agents, employees or contractors. Except as City may specify in writing, Applicant shall have no authority to act as an agent of City or to bind City to any obligation and except as Applicant may specify in writing, City shall have no authority to act as an agent of Applicant.

20. Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of this Agreement's provisions.

21. Waiver. The waiver by any party to this Agreement of any action, obligation, or commitment required by this Agreement or of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof or of any action, obligation, or commitment required by this Agreement unless specifically stated in writing.

22. Discretion of the City. City's execution of this Agreement in no way limits the discretion of City in the permit and approval process in connection with any construction or improvements within or outside the Specific Plan.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2007-____, adopted by the Council of the City of Modesto on the ____ day of _____, 2007, and Applicant has caused this Agreement to be executed in duplicate, as of the Effective Date written above.

CITY OF MODESTO, a municipal corporation

By:

_____
GEORGE W. BRITTON, City Manager

ATTEST:

By:

_____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By:

_____
DAVID CERVANTES
Senior Deputy City Attorney

BAVA VILLAS, a California limited partnership

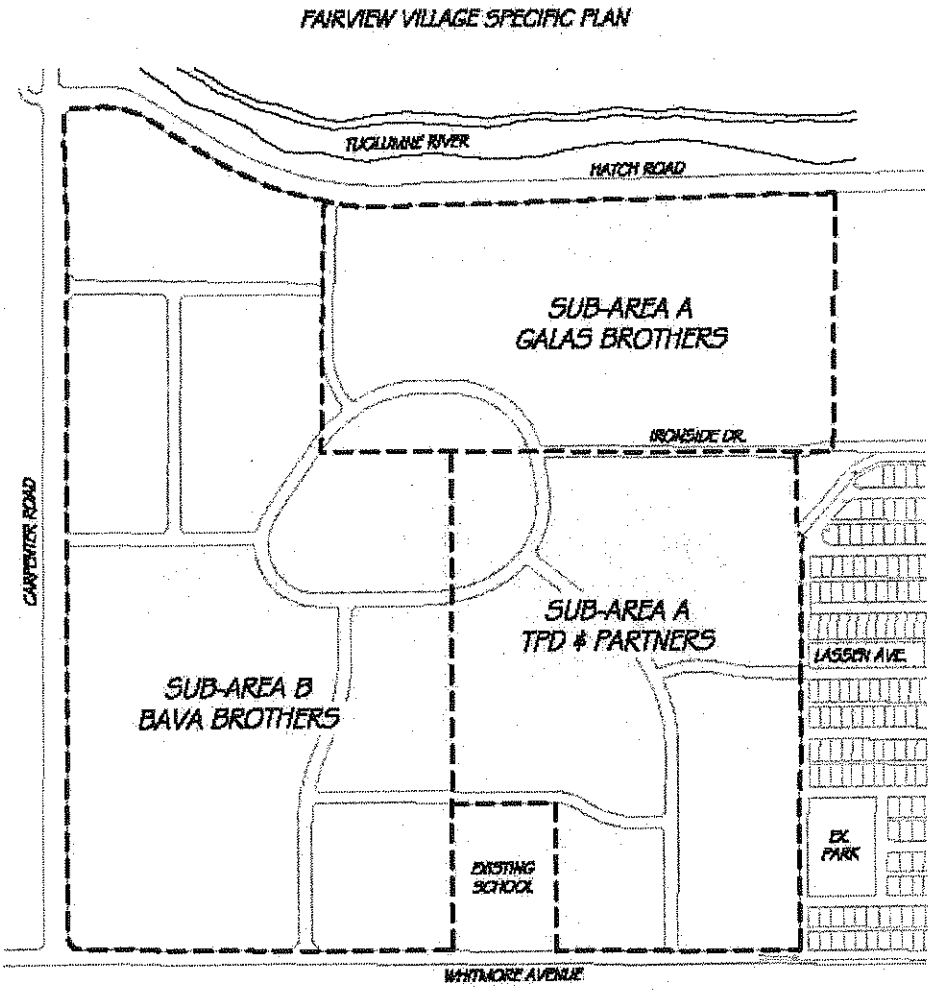
By: Fairview Properties, LLC, its General Partner
By: Willow Equities, Inc., its Managing Member

By:_____
Gregory R. Erickson, President

Federal Tax ID#_____

EXHIBIT "A"

Property Owners & Sub Areas



Stantec

EXHIBIT 2
SUB-AREA MAP

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-486

A RESOLUTION APPROVING A PUBLIC IMPROVEMENT AGREEMENT BETWEEN 4701 STODDARD, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, GREGORY L. KYLER, CHRISTINE M. KYLER AND THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A PUBLIC IMPROVEMENT AGREEMENT

WHEREAS, 4701 Stoddard, LLC, a California limited liability company, Gregory L. Kyler, Christine M. Kyler, McCoy Properties, L.P., and Jose T. Zamora are the owners of three parcels located northeast of the intersection of Kansas Avenue and Lone Palm Avenues totaling approximately 3.2 acres ("Property"), and

WHEREAS, 4701 Stoddard, LLC, a California limited liability company, Gregory L. Kyler and Christine M. Kyer are the owners of one of the three parcels, and

WHEREAS, 4701 Stoddard, LLC, a California limited liability company, Gregory L. Kyler, Christine M. Kyler, McCoy Properties, L.P., and Jose T. Zamora filed an application for annexation requesting annexation of the approximately 3.2 acres to the City of Modesto, Modesto Municipal Sewer District No. 1, and Modesto's Fire District and detachment from the Woodland Fire Protection District in order to allow industrial development on the Property, and

WHEREAS, on April 16, 2007, the Planning Commission adopted Resolution No. 2007-12, A Resolution Recommending To The City Council Adoption Of A Resolution Of Application To The Stanislaus Local Agency Formation Commission To Annex Approximately 3.2 Acres Of Property Located North Of Kansas Avenue And East Of Lone Palm Avenue (Owner Initiated – Uninhabited), and

WHEREAS, Finding and Determination No. 7 of Resolution No. 2007-12 requires that prior to the annexation application being approved by City Council, an improvement agreement between the applicant and the City shall be executed and that the agreement shall stipulate that whether or not development occurs, the applicant or developer shall provide all street dedication and improvements shall be constructed along the frontage(s) of the Property to City standards within five years after annexation or prior to recordation of Final Map, whichever occurs first, with a possible extension of five years for financial hardship, and

WHEREAS, 4701 Stoddard, LLC, a California limited liability company, Gregory L. Kyler and Christine M. Kyler, have executed a Public Improvement Agreement for their parcel, and

WHEREAS, the Public Improvement Agreement complies with Finding and Determination No. 7 of Resolution No. 2007-12,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Public Improvement Agreement between the City of Modesto and4701 Stoddard, LLC, a California limited liability company, Gregory L. Kyler and Christine M. Kyler.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Loy for
JEAN MORRIS, City Clerk

APROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-487

A RESOLUTION APPROVINGA PUBLIC IMPROVEMENT AGREEMENT BETWEEN JOSE T. ZAMORA AND THE CITY OF MODESTO AND AUTORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE PUBLIC IMPROVEMENT AGREEMENT

WHEREAS, 4701 Stoddard, LLC, a California limited liability company, Gregory L. Kyler, Christine M. Kyler, McCoy Properties, L.P., and Jose T. Zamora are the owners of three parcels located northeast of the intersection of Kansas Avenue and Lone Palm Avenues totaling approximately 3.2 acres ("Property"), and

WHEREAS, Jose T. Zamora is the owner of one of the three parcels, and

WHEREAS, 4701 Stoddard, LLC, a California limited liability company, Gregory L. Kyler, Christine M. Kyler, McCoy Properties, L.P., and Jose T. Zamora filed an application for annexation requesting annexation of the approximately 3.2 acres to the City of Modesto, Modesto Municipal Sewer District No. 1, and Modesto's Fire District and detachment from the Woodland Fire Protection District in order to allow industrial development on the Property, and

WHEREAS, on April 16, 2007, the Planning Commission adopted Resolution No. 2007-12, A Resolution Recommending To The City Council Adoption Of A Resolution Of Application To The Stanislaus Local Agency Formation Commission To Annex Approximately 3.2 Acres Of Property Located North Of Kansas Avenue And East Of Lone Palm Avenue (Owner Initiated – Uninhabited), and

WHEREAS, Finding and Determination No. 7 of Resolution No. 2007-12 requires that prior to the annexation application being approved by City Council, an

improvement agreement between the applicant and the City shall be executed and that the agreement shall stipulate that whether or not development occurs, the applicant or developer shall provide all street dedication and improvements shall be constructed along the frontage(s) of the Property to City standards within five years after annexation or prior to recordation of Final Map, whichever occurs first, with a possible extension of five years for financial hardship, and

WHEREAS, JOSE T. ZAMORA has executed a Public Improvement Agreement for his parcel, and

WHEREAS, the Public Improvement Agreement complies with Finding and Determination No. 7 of Resolution No. 2007-12,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Public Improvement Agreement between the City of Modesto and JOSE T. ZAMORA.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-488

A RESOLUTION APPROVING A PUBLIC IMPROVEMENT AGREEMENT BETWEEN MC COY PROPETIES, L.P., AND THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A PUBLIC IMPROVEMENT AGREEMENT

WHEREAS, 4701 Stoddard, LLC, a California limited liability company, Gregory L. Kyler, Christine M. Kyler, McCoy Properties, L.P., and Jose T. Zamora are the owners of three parcels located northeast of the intersection of Kansas Avenue and Lone Palm Avenues totaling approximately 3.2 acres ("Property"), and

WHEEAS, Mc Coy Properties, L.P., is the owner of one of the three parcels, and

WHEREAS, 4701 Stoddard, LLC, a California limited liability company, Gregory L. Kyler, Christine M. Kyler, McCoy Properties, L.P., and Jose T. Zamora filed an application for annexation requesting annexation of the approximately 3.2 acres to the City of Modesto, Modesto Municipal Sewer District No. 1, and Modesto's Fire District and detachment from the Woodland Fire Protection District in order to allow industrial development on the Property, and

WHEREAS, on April 16, 2007, the Planning Commission adopted Resolution No. 2007-12, A Resolution Recommending To The City Council Adoption Of A Resolution Of Application To The Stanislaus Local Agency Formation Commission To Annex Approximately 3.2 Acres Of Property Located North Of Kansas Avenue And East Of Lone Palm Avenue (Owner Initiated – Uninhabited), and

WHEREAS, Finding and Determination No. 7 of Resolution No. 2007-12 requires that prior to the annexation application being approved by City Council, an

improvement agreement between the applicant and the City shall be executed and that the agreement shall stipulate that whether or not development occurs, the applicant or developer shall provide all street dedication and improvements shall be constructed along the frontage(s) of the Property to City standards within five years after annexation or prior to recordation of Final Map, whichever occurs first, with a possible extension of five years for financial hardship, and

WHEREAS, McCoy Properties, L.P., has executed a Public Improvement Agreement for its parcel, and

WHEREAS, the Public Improvement Agreement complies with Finding and Determination No. 7 of Resolution No. 2007-12,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Public Improvement Agreement between the City of Modesto and McCoy Properties, L.P.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-489

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE KODIAK VILLAGE I SUBDIVISION PHASE I AND PHASE II, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS.

WHEREAS, Meritage Homes of California, Inc., a California Corporation, is the subdivider of the Kodiak Village I SUBDIVISION, and

WHEREAS, Meritage Homes of California, Inc., a California Corporation, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amount of $2,787,093.10 and $1,393546.50, respectively, and

WHEREAS, Meritage Homes of California, Inc., a California Corporation, has filed a warranty bond in the amount of $278,710.00 to guarantee improvements in the Kodiak Village I Subdivision, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the improvements in the SUBDIVISION as complete, and authorize the City Clerk to file a Notice of Completion and release the securities upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $2,787,093.10 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $1,393546.50 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $278,710.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-490

A RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS FOR THE KODIAK VILLAGE II SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS.

WHEREAS, Meritage Homes of California, Inc., a California Corporation, is the subdivider of the KODIAK VILLAGE II SUBDIVISION ("SUBDIVISION"), and

WHEREAS, Meritage Homes of California, Inc., a California Corporation, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $956,838.81 and $478,419.40, respectively, and

WHEREAS, Meritage Homes of California, Inc., a California Corporation, has filed a warranty bond in the amount of $95,683.88 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the improvements in the SUBDIVISION as complete, and authorize the City Clerk to file a Notice of Completion and to release the securities upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $956,838.81 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $478,419.40 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $95,683.88 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-491

A RESOLUTION APPROVING THE FINAL MAP AND ACCEPTING PUBLIC IMPROVEMENTS FOR THE ANDREA ESTATES SUBDIVISION OF THE CITY OF MODESTO, AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT, AND AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION. (OWNERS: PRESTON CONSTRUCTION COMPANY, A CALIFORNIA CORPORATION, AND TIMOTHY AND JOAN L. BERRY)

WHEREAS, Preston Construction Company, a California Corporation and Timothy Berry and Joan L. Berry, are possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 4.08 acres, known as the Andrea Estates Subdivision ("SUBDIVISION"), and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 6th day of February, 2006, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto has certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct, and

WHEREAS, the Public Works Director has certified that all public improvements required by the City of Modesto have been completed in said tract to the satisfaction of the Public Works Director, and

WHEREAS, the subdivider has posted a warranty security in an amount equal to 10% of the estimated cost of the public improvements, as determined by the City Engineer, to guarantee and warranty the public improvements for a period of one year after acceptance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The final map is hereby approved.
2. The dedications for public streets and easements as shown thereon within the boundaries of said tract are hereby accepted on behalf of the public for public use.
3. The public improvements completed in Andrea Estates Subdivision are hereby accepted.
4. The City Clerk is hereby authorized to certify the map of said tract on behalf of the City of Modesto, and to record a Notice of Completion on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid.
5. The City Manager and the City Clerk are hereby authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Municipal Code.
6. The City Clerk is further authorized to release the warranty security to guarantee improvements one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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 _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-492

A RESOLUTION APPROVING THE FINAL MAP OF VILLAGE ONE TOWN CENTER HOMES IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SUBDIVISION AGREEMENT.

WHEREAS, HOUSING ATHORITY OF THE COUNTY OF STANISLAUS ("Subdivider"), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 5.0 acres, known as VILLAGE ONE TOWN CENTER HOMES ("SUBDIVISION"), in the Village One Specific Plan Area, and

WHEREAS, a vesting tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 17th day of July, 2006, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto and the City Engineer have certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the final map for Village One Town Center Homes Subdivision is hereby approved; that the dedications for public streets and easements as shown thereon within the boundaries of said tract are accepted on behalf of the public for public use; and that the City Clerk is authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts

determined by the City Engineer have been paid and after Subdivider has furnished securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute a subdivision agreement as required by Section 4-4.604(c) of the Modesto Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-493

A RESOLUTION APPROVING AN AGREEMENT FOR SERVICES BETWEEN THE CITY OF MODESTO AND EDAW FOR PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED FAIRVIEW VILLAGE SPECIFIC PLAN AMENDMENT NO. 4 PROJECT (IN AN AMOUNT NOT TO EXCEED $ 508,365), AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Willow Equities has applied for a specific plan amendment, referred to as the Fairview Village Specific Plan Amendment No. 4, to allow for the orderly and future development within the approximate 360-acre planning area bounded by Hatch Road to the north, Yuma Avenue to the east, Whitmore Avenue to the south and Carpenter Road to the west, generally located in the southwest Modesto area, and

WHEREAS, the Fairview Village Specific Plan was adopted on December 12, 1995, by City Council Resolution No. 95-584 for the development of 350 acres for predominantly residential development, and

WHEREAS, the east portion of the specific plan area consisting of about 200 acres was annexed into the City of Modesto on June 5, 1996, and

WHEREAS, Fairview Village Specific Plan Amendment No. 1 was adopted on March 18, 1997, by City Council Resolution No. 97-135, to change the funding of certain public facilities from an assessment district to a Mello Roos Community Facilities District, and

WHEREAS, Fairview Village Specific Plan Amendment No. 2 was adopted on March 18, 1997, by City Council Resolution No. 97-138, to delete the requirement for a housing trust fund equity sharing program and collection of an affordable housing fee, and

WHEREAS, Fairview Village Specific Plan Amendment No. 3 was adopted on November 4, 1997, by City Council Resolution No. 97-622, to allow changes to the public services provider, and

WHEREAS, the proposed Fairview Village Specific Plan Amendment No. 4 project proposes to update the land use and circulation plan and to amend the document language and policies to be consistent with current City policies and programs that include providing infrastructure capacity studies, a water supply assessment, a facilities master plan, and an infrastructure financing plan, and

WHEREAS, the proposed Fairview Village Specific Plan Amendment No. 4 project will also involve the following associated entitlements: prezoning of the site; a general plan amendment; annexation of the west portion of the Specific Plan area plus a strip of land from Hatch Road to the Tuolumne River to the City of Modesto and detachment from the Burbank/Paradise Fire District; preparation of a Facilities Master Plan and Infrastructure Finance Plan, and formation of a Community Facilities District (CFD) (collectively "Project"), and

WHEREAS, Section 21080.1 of the California Public Resources Code requires the City of Modesto, as lead agency, to make a determination of whether an environmental impact report is required for the Project, and

WHEREAS, the City of Modesto has determined that an Environmental Impact Report (EIR) will be necessary to ensure that the City of Modesto complies with the requirements of the California Environmental Quality Act for the proposed Fairview Village Specific Plan Amendment No. 4 project and the project applicant now desires to proceed the EIR, and

WHEREAS, City staff recommends an Agreement for services between the City of Modesto and EDAW for preparation an Environmental Impact Report based on the scope of services supplied to City staff for the proposed Fairview Village Specific Plan Amendment No. 4 project be executed in an amount not to exceed $508,365, and

WHEREAS, the applicant will pay the entire cost of the EIR, including staff time spent on said project, and the applicant has deposited funds with the City to cover the initial phase of work outlined in the Scope of Services described in **Exhibit "A"** of the Agreement for Consultant Services, and the applicant must fund all costs to complete the EIR.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for services between the City of Modesto and EDAW for the preparation of an Environmental Impact Report for the proposed Fairview Village Specific Plan Amendment No. 4 project, in an amount not to exceed $508,365, and

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____ for
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

STANDARD
AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, this 24th day of April, 2007, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter referred to as "City", and EDAW, Inc., a Delaware corporation, hereinafter referred to as "Consultant".

This Agreement is made with regard to the following recitals:

A. The City has determined that an Environmental Impact Report should be prepared for the proposed Fairview Village Specific Plan Amendment No. 4 project to ensure compliance with CEQA.

B The Environmental Impact Report will be prepared in phases, as funding becomes available and that the applicant will fund all costs for preparing the Environmental Impact Report.

C. Consultant represents that it is qualified, willing and able to provide the services to prepare said document(s).

NOW, THEREFORE, in consideration of this Agreement, and the mutual promises, covenants, and stipulations hereinafter contained, the parties agree as follows:

1. **SCOPE OF SERVICES.**

Consultant shall undertake and complete the scope of work as set forth and described in the documents attached hereto and referred to as Exhibit "A" or "Project". The Consultant shall perform the services as described in Exhibit "A" in a manner compatible with the standards of its profession, and shall produce a fully complete Project that is acceptable to City.

2. **TERM OF AGREEMENT.**

This Agreement is effective as of the date first written above and will continue in effect until City's acceptance of and payment for all services authorized by City and performed by Consultant, unless terminated earlier in accordance with the provisions of the termination clause in this Agreement.

Within ten (10) working days after receipt of all funding necessary to pay for Consultant's services and approval of this Agreement by the City Council, City shall give Consultant a written Notice to Proceed which specifically identifies the tasks and/or projects on which Consultant is authorized to proceed. Consultant shall not commence any work pursuant to this Agreement until such time as Consultant has received a written Notice to Proceed with that work. Upon receipt of a Notice to Proceed, Consultant shall diligently proceed with the work to be performed and agrees to complete said work within the time period set forth in Exhibit A to this Agreement.

3. **COMPENSATION.**

Consultant agrees to accept a sum not to exceed $508,365 as full remuneration for performing all services and furnishing all staffing and materials called for in Exhibit "A" and for performance by Consultant of all of its duties and obligations under this Agreement.

The Compensation shall be paid pursuant in the manner and at the times set forth below:

a. Consultant shall submit monthly invoices to City identifying the work performed and percentage of each Task that has been completed, based on the Task descriptions set forth in Exhibit A and the work authorized under any Notices to

Proceed. City shall make payments on a monthly basis consistent with the percentage of Task(s) completed, until the City has paid a maximum of 90% of the total cost for each Task, based on the amounts allocated for each Task as set forth in Exhibit A. The remaining 10% of the total cost for each Task will be paid by the City upon completion of, and City acceptance of, each Task. All work to be performed under the Agreement shall be billed at the hourly rates shown in Exhibit A. Monthly invoices shall be submitted to City in the form attached hereto as Exhibit B.

b. Reimbursable Expenses. All reproduction, delivery and travel expenses will be billed at cost. The total cost for all reimbursable expenses/direct costs for the Project shall not exceed the amount provided in Exhibit A. It is the responsibility of Consultants to manage reimbursable expenses to ensure that they do not exceed this budget. Any reimbursable expenses that exceed this budget, without prior written approval from the Director of the Community and Economic Development Department ("Director"), will not be reimbursed to Consultant. Reimbursable expenses shall be invoiced to the City. Monthly invoices shall itemize the reimbursable expenses incurred during the preceding month and the amount due.

4. **OBLIGATIONS OF CONSULTANT.**

Throughout the term of this Agreement, Consultant shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. Consultant warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the City

with the services contemplated by this Agreement. Consultant further warrants that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

5. **PERFORMANCE BY KEY EMPLOYEE.**

Consultant has represented to City that Randy Chafin, will be the person primarily responsible for the performance of the services referred to in this Agreement. City has entered into this Agreement in reliance on that representation by Consultant. Consultant therefore agrees that 9% percent or more of the time to be devoted to the project that is the subject of this Agreement will be that of the above-named person.

6. **OWNERSHIP OF DOCUMENTS/TITLE TO DATA.**

Ownership of Documents

All reports, drawings, designs, graphics, working papers and other incidental work or materials furnished hereunder shall become and remain the property of the City, and may be used by City as it may require without any additional cost to City. Any reuse of Project documents by the City for purposes other than those for which they were prepared shall be at the risk of City. No reports shall be used by the Consultant for purposes other than this contract without the express prior written consent of City.

Title to Data

If, as a part of the Agreement, Consultant is required to produce data such as, but not limited to, drawings, plans, specifications, calculations, models, flow diagrams, visual aids and other related materials, the originals of all such data generated under this Agreement will be delivered to City upon the completion or termination of services under this agreement.

All materials, documents, data or information obtained from the City data files or any City medium furnished to Consultant in the performance of this Agreement will at all times remain the property of the City. Such data or information may not be used or copied for direct or indirect use by Consultant after termination of this Agreement without written consent of the City.

7. **NEWS AND INFORMATION RELEASE.**

Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Manager.

8. **INTEREST OF CONTRACTOR.**

Consultant warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Consultant warrants that, in performance of this Agreement, Consultant shall not employ any person having any such interest. Consultant agrees to file a Statement of Economic Interests with the City Clerk at the start and end of this Agreement if so required at the option of City.

9. **AMENDMENTS.**

Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for City or Consultant to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with City and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, City will not be responsible to pay any charges Consultant may incur in performing such additional services, and Consultant shall not be required to perform any such additional services.

10. **INDEPENDENT CONTRACTOR.**

All acts of Consultant, its agents, officers, and employees and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of City. Neither party, by virtue of this Agreement, has authority to bind or incur any obligation on behalf of the other. Consultant has no authority or responsibility to exercise any rights or power vested in the City. No agent, officer, or employee of the City is to be considered an employee of Consultant. It is understood by both Consultant and City that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

Consultant, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of City.

Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to City only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to City's control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. Consultant is permitted to provide services to others during the same period service is provided to City under this Agreement. If necessary, Consultant has the responsibility for employing

other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision, and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the Consultant.

It is understood and agreed that as an independent contractor and not an employee of City neither the Consultant or Consultant's assigned personnel shall have any entitlement as a City employee, right to act on behalf of the City in any capacity whatsoever as an agent, or to bind the City to any obligation whatsoever.

It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's personnel.

As an independent contractor, Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

11. **ASSIGNMENT.**

Neither this Agreement nor any portion thereof shall be subcontracted or assigned without the express prior written consent of the City in each and every instance.

12. **PATENT/COPYRIGHT MATERIALS.**

Unless otherwise expressly provided in the contract, Consultant shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the

performance of this Agreement. Consultant shall furnish a warranty of such right to use to City at the request of City.

13. **NOTICES.**

Any and all notices permitted or required to be given hereunder (excepting the insurance notices) shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

FOR Consultant:

Name: EDAW Inc
Address: 2022 J Street, Sacramento, CA 95814
Attention: Randy Chafin
Phone: 916 414 5800

FOR CITY:

Name: City of Modesto
Address: PO Box 642, Modesto, CA 95353
Attention: Patrick Kelly, Principal Planner
Phone: 209 577 5268

14. **INSURANCE REQUIREMENTS.**

The Consultant shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in 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 Risk Manager of the City by mail for all of the following stated insurance policies.

(a) Worker's Compensation - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of $500,000.

(b) General Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or $1,000,000 combined single limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent consultants and subcontractors; and products and completed operations.

(c) Automobile Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or $1,000,000 combined single limit. This insurance shall cover "hired and non-owned vehicles" for bodily injury and property damage where Consultant represents in writing to City that it will not utilize owned vehicles in the performance of this Agreement. The insurance shall cover either "scheduled vehicles" or "any auto," or both, for bodily injury and property damage where Consultant will use owned vehicles in the performance of this Agreement.

(d) Professional Liability insurance with a minimum limit of $1,000,000 per claim and policy aggregate.

If at any time during the term of this Agreement any of said policies shall become unsatisfactory to the City, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the City, the Consultant shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon

failure of the Consultant to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the City, may be forthwith declared suspended, or terminated. Failure of the Consultant to obtain and/or maintain any required insurance shall not relieve the Consultant from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Consultant concerning indemnification. The City, its officers, employees, and designated volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the City, its officers, employees, and designated volunteers for losses arising from work performed by Consultant in providing the services for the City under this Agreement. The Consultant's insurance policy(ies) shall include a provision that the coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The Consultant must deliver certificates evidencing existence of the insurance called for in this Agreement to the City Clerk at the time this Agreement is signed.

Consultant shall provide City with separate endorsements evidencing proof of the City's additional insured status as to both the general liability and automobile liability insurance policies. In addition, Consultant shall provide City with a Workers Compensation subrogation waiver by way of a separate endorsement. All endorsements referenced above must include the applicable policy number.

15. **TERMINATION OF AGREEMENT.**

Termination on Occurrence of Stated Events

This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of Consultant, (2) legal dissolution of Consultant, or (3) death of key principal(s) of Consultant.

Termination by City for Default of Consultant

Should Consultant default in the performance of this Agreement or materially breach any of its provisions, at its option City may terminate this Agreement by giving written notification to Consultant. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties in accordance with this Agreement, willful destruction of City's property by Consultant, dishonesty or theft.

Termination by Consultant for Default of City

Should City default in the performance of this Agreement or materially breach any of its provisions, at its option Consultant may terminate this Agreement by giving written notice to City. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with Consultant, willful destruction of Consultant's property by City, dishonesty or theft.

Termination by City for Lack of Budgeted Funds

The City may terminate this Agreement effective July 1 of any given year upon the City's determination to not appropriate sufficient funds for this Agreement for the ensuing fiscal year. In such event City shall give Consultant not less than 30 days written notice.

Termination by City for Lack of Developer Funds

Consultant understands and acknowledges that the work to be performed under this Agreement will be paid through funds to be provided by one or more private project applicants, and that City has no control over whether or when the project applicants will provide the necessary funding to complete the services for which the City and Consultant have contracted The City will use best efforts to assure that the necessary funding is available to complete all work authorized under this Agreement. If, however, project applicant funds are not available in a timely manner or if a project applicant chooses to terminate work related to the applicant's project, the City may, at City's sole option, temporarily delay or terminate this Agreement, or any portion of the work hereunder. by giving written notification to Consultant. The delay or termination date shall be the effective date set forth in the notice.

Termination for Failure to Make Agreed-Upon Payments

Should City fail to pay Consultant all or any part of the payments set forth in this Agreement on the date due, at its option Consultant may terminate this Agreement if the failure is not remedied within thirty (30) days after Consultant notifies City in writing of such failure to pay. The termination date shall be the effective date of the notice.

Termination by City for Change of Consultant's Tax Status

If City determines that Consultant does not meet the requirements of federal and state tax laws for independent contractor status, City may terminate this Agreement by giving written notice to Consultant. The termination date shall be the effective date of the notice.

Voluntary Termination

The parties may terminate this Agreement upon mutual written agreement.

In the Event of Termination

If this Agreement is terminated pursuant to this Paragraph, Consultant shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If City so requests, and at City's cost, Consultant shall provide sufficient oral or written status reports to make City reasonably aware of the status of Consultant's work on the project. Further, if City so requests, and at City's cost, Consultant shall deliver to City any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, City will pay Consultant an amount based on the percentage of work completed on the termination date, this percentage shall be mutually agreed to by the City and Consultant. If the Agreement is terminated pursuant to the subparagraph entitled Termination by City for Default of Consultant, Consultant understands and agrees that City may, in City's sole discretion, refuse to pay Consultant for that portion of Consultant's services which were performed by Consultant on the project prior to the termination date and which remain unacceptable and/or not useful to City as of the termination date.

16. **CERTIFIED PAYROLL REQUIREMENT.**

For consultants performing field work on public works contracts on which prevailing wages are required: The Consultant shall comply with the provisions of Section 1776 of the California Labor Code, regarding payroll records, and shall require its subconsultants and subcontractors to comply with that section as may be required by law.

17. **INDEMNITY.**

Consultant shall hold the City, its agents, officers, employees and volunteers harmless from and save, defend and indemnity them against any and all claims, losses, liabilities, judgments or damages from every cause, including but not limited to injury to person or property or wrongful death, including reasonable costs and expenses of defense of any judicial or administrative action, arising directly or indirectly out of any negligent or intentional act or omission of Consultant, its agents, officers, employees or volunteers relating to or during the performance of its obligations under this Agreement.

Consultant's obligation to defend, indemnify, and hold the City, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

18. **ENTIRE AGREEMENT.**

This Agreement and its exhibits contain the entire understanding between Consultant and City. Additional or new terms contained in this Agreement which vary from Consultant's proposal are controlling and are deemed accepted by Consultant by shipment of any article or other commencement of performance hereunder. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

19. **PARTIAL INVALIDITY.**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

20. **WAIVER.**

The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

21. **AUDIT.**

The City's duly authorized representative shall have access at all reasonable times upon advance notice and during normal business hours to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant's charges to City under this Agreement.

Consultant agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for Consultant services. City's representative shall have the right to reproduce any of the aforesaid documents.

22. **GOVERNING LAW.**

This Agreement shall be governed according to the laws of the State of California.

23. **HEADINGS NOT CONTROLLING.**

Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

24. **COMPLIANCE WITH LAWS.**

Consultant shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. Consultant shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits. Consultant will have a City of Modesto business license.

25. **CITY BUSINESS LICENSE.**

Consultant will have a City of Modesto business license.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. _____, adopted by the Council of the City of Modesto on the _____ day of _____,20____, and _____ has caused this Agreement to be duly executed.

CITY OF MODESTO, a municipal corporation

By_____
GEORGE BRITTON, City Manager

ATTEST:

By_____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By_____
ALISON A. BARRATT GREEN, Senior Deputy City Attorney

APPROVED AS TO RISK MANAGEMENT:

By_____
DAVID RAWE, Assistant Risk Manager

CONSULTANT*

By_____
GARY JAKOBS, Vice President

By_____
Sydney B. Coatsworth, Vice President
(Seal)

Consultants Federal ID # 20-3444203

** Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.*
Partnership - signature of a partner required
Sole Proprietorship - signature of proprietor required

PROPOSED SCOPE OF SERVICES
FEBRUARY 2, 2007 (REVISED 3/8/07)

PROJECT UNDERSTANDING

The Fairview Village project has a relatively long history with the City of Modesto. A specific plan was first prepared in 1995. It was analyzed under a focused environmental impact report (EIR) and approved. Subsequently, amendments to the plan have been proposed and approved by the City.

Recently, a large portion of the plan area, identified as Westport Landing, has come forward in the form of a tentative map. No action has been taken on the proposed project.

The fourth amendment to the 1995 specific plan is now proposed, which will be the subject of this EIR. The proposed project is described in a draft plan dated June 6, 2005, prepared by JB Anderson Land Use Planning. Although a final project description is being prepared, following is a basic description of the proposed project:

- Low Density Residential – 243 acres
- Medium Density Residential – 53 acres
- Medium High Density Residential – 16 acres
- Retail Commercial – 12.0 acres
- Park/Basin – 16 acres
- New Elementary School – 10 acres
- Existing Elementary School – 10 acres

The approximately 360-gross acre site is partially within the City of Modesto and partially in unincorporated Stanislaus County. The property is in three ownerships; a portion consisting of about 80 acres (Galas Brothers) has been subdivided and developed with single family dwellings and will be acknowledged with this project; the balance of the site of about 280 acres represents the new development.

The proposed project includes a strip of land on the north side of Hatch Road extending to the Tuolumne River. The strip of land is located in the Tuolumne River Comprehensive District designated for open space use and is part of this project for annexation purposes.

The City is currently involved in a maintenance update of its General Plan. The project proponent intends to prepare the specific plan while the General Plan update is underway, but in a manner consistent with the identified General Plan Preferred Land Use Alternative. The City has agreed to this approach to specific land planning.

WORK PROGRAM

The following work program is based on EDAW's current understanding of the proposed project. As the project description evolves, adjustments to the work program, cost, and schedule may be warranted.

Approach to EIR

The EIR for the Fairview Village Specific Plan will constitute a "focusing in" upon the broader environmental issues addressed in the Master EIR for the General Plan Update and re-assessment of

environmental issues previously raised in the 1995 focused EIR for Fairview Village in light of changes to the proposed plan and changes in the physical and regulatory environment. Information will also be taken from the initial study/mitigated negative declaration (IS/MND) prepared for the Community Facilities District in 2003, as well as the Key Issues Analysis, dated March 10, 2005, prepared by Impact Sciences. CEQA documents prepared for nearby projects, such as the EIR for the Tuolumne River Regional Park CPD will also be used.

We will "focus in" or build upon the more generalized analyses contained in the City's General Plan Master EIR (GPMEIR). The Fairview Village Specific Plan Amendment 4 EIR, however, will not tier from the GPMEIR, since the update GPMEIR will still be in preparation and will not have been certified.

EDAW is committed to the successful performance of all facets of the CEQA process, including initiation and organization; data review and compilation; identification of site opportunities and constraints; participation in the design process; establishment of baseline and cumulative conditions; impact assessment; development of appropriate and effective mitigation measures; report compilation; CEQA adequacy review; participation in scoping; and coordination between the City and the EDAW team and between the EDAW and the project proponent's team. EDAW will review and use any existing documents and studies prepared on this project site that will be helpful in the preparation of this EIR.

The CEQA Guidelines identify several types of EIRs, each applicable to different project circumstances. As discussed below, a Program EIR is appropriate for land use decision making at a broad level that contemplates further, site-specific review of individual development proposals. The form of EIR appropriate for this specific plan is assumed to be a Program EIR since the project does not include project specific proposals such as tentative subdivision maps.

The EIR will address impacts resulting from project development, operation, and maintenance to enable the project proponents, the City, and other regulatory agencies with jurisdiction over the proposed project to examine the overall effects of implementing the proposed project. The analysis also will enable them to take the necessary precautions and to require the implementation of various performance standards for future projects to avoid or reduce adverse environmental effects.

The program-level analysis will address the broad, as well as specific, environmental effects of project implementation. Additionally, the EIR will address the impacts of a buildout year to be provided by the project proponent. As the first step in the environmental review process for implementing the project, the analysis also will identify performance standards (e.g., mitigation measures to protect sensitive resources) that would apply to all subsequent development (e.g., tentative subdivision maps and improvement plans) in the plan area. In addition, the analysis will address the cumulative impacts of developing the proposed project.

The proposed project will encompass separate phases of development. To move forward with a subsequent development project, the project proponent would submit a project application for each subsequent project. At that time, the City would conduct a site-specific analysis of the project's potential impacts, particularly with respect to that project's compliance with the performance standards set forth in the EIR and incorporated into the specific plan (Public Resources Code Section 21083.3; State CEQA Guidelines Sections 15168, 15183). If the project falls within the scope of the analysis of the specific plan EIR, the project would only be required to implement the mitigation measures (i.e., performance standards) identified in the EIR in order to proceed. No further CEQA documentation would be necessary other than documenting consistency with the EIR.

WORK TASK DESCRIPTIONS

The proposed work task descriptions that follow have been organized into three major phases – Initial Study/NOP, Draft EIR, and Final EIR, each with a series of numbered tasks.

PHASE 1 – PROJECT INITIATION, INITIAL STUDY, AND NOTICE OF PREPARATION

Task 1: Initiate Project

Purpose

To establish early communication among the various project team members and identify project issues and concerns.

Approach

The EDAW principal-in-charge and project manager will attend an initial orientation meeting with the City management team and the project proponent's team to review the proposed project, clarify the project objectives, discuss the proposed scope of work, and agree on the preferred direction of the environmental analysis and CEQA strategy.

An important issue will be the degree to which the project proponents will be permitted to participate in the review of EDAW work products. Accordingly, we recommend establishing lines of communication and communication protocols between EDAW and the project proponent's team early in the process.

We will request any other data needed to initiate and complete the environmental analysis.

Task 1 Summary	
Products:	Memorandum detailing data needs, if necessary

Task 2: Perform Site Reconnaissance, and Collect and Analyze Background Information

Purpose

To thoroughly familiarize the EDAW team with the site and surrounding area, to collect and gain a solid understanding of all background documents relevant to the project site, and to obtain a complete project description.

Approach

EDAW personnel will visit the site to gain a clear understanding of the site characteristics and the relationship of the site to surrounding lands. We recommend that this initial reconnaissance be hosted by the project proponents and also be attended by the City's management team.

EDAW personnel will contact project proponent team members and other agencies, as appropriate, to obtain copies of all documentation relevant to the site and the project.

After reviewing all application materials submitted by the project proponent, EDAW personnel will create an information needs list that identifies additional information, sorted by environmental topic that will be needed in order to complete the EIR. This will serve as an initial list since subsequent information needs may arise during the environmental analysis.

Task 2 Summary	
Products:	Information needs list
Meetings:	Field trip guided by the project proponents team and attended by City management team and the EDAW team

Task 3: Prepare Notice of Preparation Package, Participate in Scoping Meeting

Purpose

Complete CEQA Notice of Preparation (NOP) process, including participation in a public scoping session. The NOP process, including scoping session, will be used to narrow the focus, scope, and content of the EIR. Following preparation of the NOP package and scoping, EDAW will confirm or refine the work program for the EIR analysis, if necessary.

Approach

EDAW will assemble the NOP package in coordination with City management team and with assistance from the applicant's team. The NOP package will be prepared in conformance with the State CEQA Guidelines. It will include a description of the proposed project, the project's location on a map, and conceptual site plans. In lieu of an Initial Study, the project description will include a section entitled Probable Environmental Effects. In addition to providing a summary description of environmental effects for each of the major topic areas identified in the CEQA Guidelines, it will provide a basis for dismissing certain topic areas from further environmental analysis in the EIR.

We will submit 20 copies of the draft NOP package to the City management team and the project proponent for review and comment before submission of the final package to the City. EDAW assumes there will be one draft reiteration of the NOP package to obtain comments. The draft NOP will be shared with the project proponent after it has been reviewed and approved by City staff. EDAW will revise the draft NOP package (assuming one reiteration) to incorporate City comments and forward 65 copies of the final NOP package to the City for distribution to the State Clearinghouse, regulatory agencies, City staff, and interested agencies/organizations. EDAW will hand-deliver the NOP package to the State Clearinghouse, if requested.

We will attend one scoping meeting with regulatory agencies and the public. The scoping meeting will be coordinated with the City management team. EDAW's role in the scoping meeting will be determined by the City.

EDAW will consider comments received in response to the NOP in the EIR.

Following preparation of the NOP and results of scoping, we will either confirm or refine the remaining work, cost, and schedule. EDAW is available to attend one meeting with the City and project proponent to confirm the scope of work, if necessary.

Task 3 Summary	
Products:	Confirmed or refined project work program, cost, and schedule One reiteration of draft NOP package (20 copies) Final NOP (65 printed copies) PDF files
Meetings:	See Task 10 for monthly coordination meetings Scoping meeting to be attended by the Project Manager (1)

PHASE 2 – DRAFT EIR

Task 4: Prepare Administrative Draft EIR

Purpose

Prepare an administrative draft EIR for the proposed project. Up to three iterations of the administrative draft EIR will be submitted to the City for review. City staff may share the second administrative draft with the project proponent for review and comment. EDAW will attend one meeting to review comments. After comments are incorporated, EDAW will produce cut sheets showing revisions to the Draft EIR for approval before submittal of the Public Review Draft EIR to the City.

Approach

EDAW will prepare the EIR to satisfy CEQA, as described earlier in this Scope of Services. As appropriate, as much existing information as possible will be extracted from any available CEQA documents and technical studies for projects in the vicinity. EDAW will prepare the setting, impact analysis, and recommended mitigation measure (including performance standards) sections for the environmental topic areas described below.

In the following environmental topics, EDAW will rely upon technical studies provided by the following subconsultants. We will peer review those technical studies before incorporating them into the EIR. These environmental topics are:

- Traffic (kdAnderson Transportation Engineers)
- Wastewater (Carollo Engineering)
- Surface Hydrology/Water Quality (Stormwater Consulting)
- Water (West Yost Associates)

If any other technical reports become available from the project proponent, we will review those documents as well.

The following subtasks describe the contents of the administrative draft EIR and the steps necessary to complete each section.

1. Table of Contents

2. Executive Summary: An executive summary will be prepared that presents the significant conclusions of the EIR in a manner that is easily understood by the public. An introduction, a project history, a project description, and a description of alternatives will be provided. Summary discussions of each environmental issue evaluated also will be provided with focus on the most critical issues raised in the EIR. A summary table format will be used to identify less-than-significant impacts, significant impacts, significant and unavoidable impacts, cumulative impacts, mitigation measures, and the effectiveness of the recommended mitigation measures for the proposed project after implementation.

Because this chapter summarizes the contents of the EIR, preparing it before client and project proponent review would be inefficient. For this reason, the chapter will be made available in the Public Review Draft EIR that will be submitted to the City (Task 6).

3. Introduction: The introduction will describe the type and uses of the EIR; the environmental process required for the proposed project; the organization of the EIR; the focus of the EIR analysis; and other documents used in the preparation of the EIR. It also will identify the lead, cooperating, responsible, and trustee agencies under CEQA.

4. Project Description: In close coordination with the project proponent, EDAW will assemble project information that will form the CEQA project description. The project description will be used for the NOP package (see Task 4 above), and the EIR. The following CEQA requirements will be presented:

- **Regional and local setting.** The EIR will describe the regional and local project location and physical setting to establish the environmental baseline for analysis.
- **Project background.** This section will contain a brief discussion of the process by which the project proponent determined the need for the project.
- **Project objectives.** Consistent with CEQA requirements, project objectives for the proposed project will be developed and clearly stated to define the range of alternatives and to support the later discussion of alternatives considered but rejected and the adoption of findings for the project.
- **Project characteristics.** The EIR will fully describe the characteristics of the proposed project, including project phasing and on- and off-site infrastructure improvements.
- **Intended uses of the EIR.** As required by Section 15124(d) of the State CEQA Guidelines, the project description will include a list of cooperating, responsible, and trustee agencies expected to use the EIR in decision-making; a list of permits and other approvals required to implement the project; and a list of related environmental review and consultation requirements needed for compliance with federal, State, and local laws and regulations.
- **Required Approvals.** A list of entitlements required to implement the project will be provided.

5. Environmental Setting, Impacts, and Mitigation Measures: Consistent with CEQA requirements, a comprehensive discussion of the existing project setting (i.e., baseline conditions) will be prepared and presented. Also presented will be a regulatory setting which describes the environmental laws, regulations, and ordinances applicable to the proposed project, as well as the significance criteria in which to measure the significance of impacts, impact methodology, and impact analysis. The EIR will provide a clear, concise, and focused description of the direct, indirect, and cumulative impacts of the proposed project. Mitigation measures will be recommended to avoid, eliminate, or reduce impacts to a less-than-significant level.

It is anticipated that the following issues (which will be contained in separate sections) will be addressed in the EIR; this listing may change following completion of the NOP (Task 3): It is assumed that certain topics, such as Population and Minerals, will be "scoped out".

- Aesthetics
- Air Quality
- Biological Resources (botanical, wildlife, and wetland resources)
- Cultural Resources
- Geology and Soils, and Paleontological Resources
- Hazards and Hazardous Materials
- Land Use and Agricultural Resources
- Noise

- Public Services and Utilities (water supply, wastewater disposal, electricity, natural gas, and communications, law enforcement, fire protection, schools, and solid waste, and parks and recreation)
- Surface Hydrology and Water Quality
- Traffic and Transportation

EDAW's approach to the analysis of each of these resource topics is presented below. In each instance, as previously noted, we will "focus in" or build upon the more generalized analyses contained in the City's GPMEIR. The Fairview Village Specific Plan EIR, however, will not tier from the GPMEIR, since the updated GPMEIR will still be in preparation and will not have been certified.

Aesthetics

EDAW will evaluate the potential for the proposed project to alter views currently seen from adjacent roadways. A reconnaissance-level site visit will be conducted to evaluate the visual character of the project study area and surrounding areas and to take photographs to be included in the EIR. No visual photosimulations will be prepared.

EDAW will develop performance standards, in the form of mitigation measures, to be incorporated and adopted as part of the specific plan based on guidance contained in the General Plan Update. Performance standards are expected to address building style and design, landscaping, lighting, visual buffers, tree retention, and other relevant performance standards to avoid or reduce visual impacts to less-than significant levels.

Air Quality

The proposed project area is located in City of Modesto which is under the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD). EDAW will describe the regional and local air quality in the vicinity of the project site. Applicable air quality regulatory framework, standards, and significance thresholds will also be presented.

EDAW will conduct an analysis of air quality impacts in accordance with the recommended methodologies identified by SJVAPCD (SJVAPCD, 2005). The air quality impact analysis will include a general discussion of potential short-term (i.e., construction-generated) air pollutant emissions. Short-term increases in regional criteria air pollutants and precursors (reactive organic gases [ROG], nitrogen oxides [NOX], and particulate matter less than 10 microns in diameter [PM10]) will be modeled for the proposed project using URBEMIS 2002 Version 8.7.0 as recommended by the SJVAPCD. Short-term construction-generated increases in criteria air pollutants will be compared with applicable SJVAPCD thresholds for determination of significance. SJVAPCD mandatory and recommended measures will be provided as mitigation, where necessary.

EDAW will also model long-term (i.e., operational) regional criteria air pollutant emissions and precursors from area- and mobile-sources using URBEMIS for the proposed project as recommended by the SJVAPCD. Regional emissions will be estimated based, in part, on trip generation data from the transportation analysis that will be prepared for this project. Total regional operational emissions will be compared with applicable SJVAPCD thresholds for determination of significance. SJVAPCD-recommended measures will be provided as mitigation where necessary. Our air quality specialists will consult with the SJVAPCD for determination of appropriate mitigation measures to be incorporated to reduce long-term air quality impacts. Effects of proposed mitigation measures will be quantified.

The analysis will include an assessment of local mobile-source carbon monoxide (CO) impacts, where deemed necessary in accordance with SJVAPCD recommended methodologies, using the CALINE4 model with emission factors from EMFAC 2002. Vehicle-type distribution percentages (i.e., light-duty auto, sport utility, medium and heavy-duty trucks) will be based on registration data from the California Department of Motor Vehicles for City of Modesto as contained in EMFAC and heavy-duty truck traffic data from the California Department of Transportation (Caltrans). CALINE4 modeling will be performed in accordance with SJVAPCD- and Caltrans-recommended methodologies. Local mobile-source impacts are typically quantified for congested areas [i.e., level of service (LOS) E or worse] with high background CO concentrations.

Intersections will be modeled with peak-hour traffic data from the transportation analysis that will be prepared for this project (p.m. peak only) for existing and existing-plus-project conditions to determine the potential for localized CO "hot spots." Modeled CO concentrations will be compared with state and national 1- and 8-hour ambient air quality standards to determine impact significance. SJVAPCD-recommended measures will be provided as mitigation where necessary.

EDAW will also prepare a qualitative assessment of the proposed project's contribution to greenhouse gas emissions.

Biological Resources

The project site includes land previously used for growing field crops, as well as a strip of land on the north side of Hatch Road extending to the Tuolumne River. Native plant communities are absent from the project site due to prior agricultural conversion. However, sensitive biological resources, including special-status species and wetlands, could be present. Agricultural land in this region of Stanislaus County can provide important foraging habitat for Swainson's hawk and habitat for burrowing owl.

Our work program includes site reconnaissance and review of existing documentation pertinent to the biological resources on the project site. An electronic search of the California Department of Fish and Game's California Natural Diversity Data Base and the California Native Plant Society's (CNPS's) electronic inventory will be conducted to obtain information regarding sensitive biological resources potentially occurring on and near the site. Documents that describe the status and distribution of sensitive biological resources in the project vicinity will be included as part of the literature review.

EDAW biologists will conduct a reconnaissance-level survey of the site to evaluate the existing biological resources. Important biological resources (e.g., special-status species, sensitive plant communities, etc.) identified on and near the project site will be documented and mapped onto aerial photographs of the site, and the potential of the site to support additional special-status species that may not be identifiable at the time of the field survey will be evaluated.

Based on information obtained through existing documentation review and the results of the field survey, the environmental setting section of the biological resources chapter will be prepared. The setting section will include a description of the existing biological resources on the project site and an exhibit showing the location of any known or potential sensitive biological resources on the project site. An overview of relevant federal, State, and local laws and regulations pertaining to the protection of biological resources at the project site will also be included. This scope of services does not include focused surveys for special-status species or a formal wetland delineation because it is not known at this time if these resources are located in the proposed development area.

Cultural Resources

Prefield Efforts. The initial cultural resources investigation efforts will entail a review of any previous archaeological survey and excavation reports, archaeological site records, and formal property listings on file at the Northwest Information Center (NWIC) of the California Historical Resources Information System. The NWIC search will cover the entire project site. Available historical data will be supplemented with additional research. EDAW will review formal listings of properties included in the National Register of Historic Places and the California Register of Historical Resources.

EDAW will also contact the Native American Heritage Commission (NAHC) to request a search of the Sacred Lands Files to determine if any significant traditional cultural use areas are present within or in the vicinity of the project area. The NAHC will also be asked to provide a list of suitable Native American tribal representatives in the area. These organizations and individuals will be contacted via letter and up to two follow-up phone calls, if necessary. The local Native American community will be informed of the cultural resources portion of the project and their knowledge of significant cultural sites in the area will be solicited.

Field Inventory. A mixed-strategy archaeological inventory will be conducted by archaeologists who will carefully examine the site. Any newly identified archaeological sites encountered within the project area will be recorded in a manner consistent with the Office of Historic Preservation's publication Instructions for Recording Historical Resources (1993). California Department of Parks and Recreation (DPR) Series 523 forms will be prepared, along with appropriate supporting forms (e.g., Archaeological Site Record, Linear Feature record, Site Sketch Map, Location Map). Cultural constituents, site condition, and factors affecting each site will be noted on the DPR forms. Standard color photography will be used to document each resource, and photographic records will be maintained. Only diagnostic artifacts (those with definitive cultural and temporal associations) will be collected during this stage and will be located on project maps and with exact coordinates obtained using state-of-the-art Global Positioning System (GPS) equipment.

If any historic or prehistoric sites are noted, EDAW will use GPS units to collect one point for each small site (less than 10 acres), two or more points for linear resources, and four points for sites greater than 10 acres in extent. Any previously identified resources within the project area will be revisited and, if necessary, updates to existing DPR forms for those resources will be prepared.

An architectural historian will conduct background research to determine whether the existing buildings on the project site are historic (i.e., greater than 45 years old). If historic resources are present, these will be documented according to current professional standards. No subsurface testing or evaluation is included in this scope of work.

Geology and Soils, and Paleontological Resources

The project site topography is relatively flat. Nonetheless, significant quantities of earth will be moved to develop the site. This creates a potential for erosion-related effects. Particular attention will be given to the potential for air- or water-borne earth that is disturbed during the site development process to enter nearby canals or local drainage ditches and to be transported to other water bodies. The potential for geology and soil impacts associated with the proposed project will be evaluated based on the project proponent's geological study, publications from the U.S. Geological Survey, California Division of Mines and Geology, Soil Conservation Service, and the Modesto City General Plan. The EIR will focus on the seismicity of the area, the potential for liquefaction and subsidence, and erosion problems, as applicable. The potential for short-term, construction-related project impacts will be analyzed, and mitigation

measures will be recommended for any potentially significant effects in the EIR. EDAW does not propose to conduct any formal geotechnical studies in this scope of work.

EDAW will assess the potential for project impacts to paleontological resources by identifying and describing the geological formations on which the project is located and assessing their sensitivity for containing significant fossils. We will conduct the sensitivity assessment by: (1) consulting applicable geological and paleontological literature for information on the applicable geological strata, and (2) conducting a records search at the UC Berkeley Museum of Paleontology to identify the nearest known fossil finds. The paleontological analysis will include a site visit (if our preliminary analysis determines that the project could be located on a paleontologically-sensitive rock unit); a discussion of the geologic setting, formations, and stratigraphy of the project site; a discussion of the sensitivity of project site and vicinity and any known paleontologic resources; an assessment of potential project-related impacts on paleontologic resources; and proposed mitigation measures (if necessary).

Hazards and Hazardous Materials

Past uses of the project site have historically been devoted to agricultural uses. The historical uses of the project site will be documented for periods for which data is available. Sources of information to be researched will include historic land use maps, zoning maps, and public records. Additionally, the U.S. EPA's Envirofacts website database will be searched to determine if the site or properties in the vicinity have been listed on regulatory agency databases. We will also refer to data and conclusions contained in the Phase 1 ESA, dated January 12, 2004 prepared for the plan area. The need for an additional ESA to address portions of the project site that may not included in the January 2004 ESA or a Phase 2 study to will be determined following our review of the January 2004 report. These resources will be used to determine areas of potential contamination on the project site or surrounding property, if any.

The significance of potential impacts will be determined, and mitigation recommended to minimize potential adverse impacts, if necessary. For purposes of this analysis it is assumed that the handling of any hazardous substances would occur in accordance with applicable federal, State, and local regulations.

Land Use and Agricultural Resources

The land use consistency analysis will assess the consistency of the project with the portions of the Modesto General Plan as proposed in the Update Program. The analysis will assess the effects of the project on the character of the project study area and compatibility with the existing and planned land use patterns. Existing land uses in the immediate vicinity of the project will be described from existing information, where available. This section also will address property acquisition and required land use entitlements; the conversion of undeveloped land, including farmland, to other uses; division of established communities; and consistency with plans and policies adopted for the purpose of avoiding environmental impacts.

For the agricultural analysis, existing agricultural resources on the project site and in the surrounding vicinity will be described, including the types of farming activities and description of on-site soils that are suitable for farming activities based on the Farmland Mapping and Monitoring Program. The analysis will focus on impacts associated with the conversion of farmland (as defined by CEQA), and the potential for the project to conflict with or induce conversion of other area agricultural uses. EDAW will determine acreage of Prime Agricultural Land, Agricultural Land of Statewide Importance, and Williamson Act contract status using appropriate agency databases.

An exhibit showing existing land uses will be presented in the EIR. An assessment consisting of each issue area presented in the EIR (i.e., transportation, air quality, noise, etc.) with adopted plans and policies will be conducted as part of each issue area.

Noise

EDAW will describe the existing noise environment on and near the proposed project site, based on existing documentation and reconnaissance-level data. As part of the site reconnaissance, an EDAW noise specialist will conduct a maximum of eight short-term (i.e., 15-minute) noise measurements at various locations on and in the vicinity of the proposed project to characterize the existing noise environment.

Nearby existing, noise-sensitive receptors and noise sources will be identified and discussed. Relevant background information, including noise fundamentals, descriptors, and applicable federal, State, and local regulatory framework, will also be presented.

The analysis will include an assessment of potential short-term, temporary (i.e., construction-related) noise impacts with respect to nearby sensitive receptors and their relative exposure (considering structural barriers and distance). Noise levels of specific construction equipment will be determined and resultant noise levels at those receptors (at given distances from the source) will be calculated.

EDAW will assess potential long-term (i.e., operational) mobile- and stationary-source noise impacts. With respect to traffic, noise levels will be modeled based on traffic volumes obtained from the transportation analysis that will be prepared for this project. A Federal Highway Administration-approved traffic noise prediction model will be used to determine roadway traffic noise levels for existing, existing-plus-project, cumulative, and cumulative-plus-project scenarios for affected roadway segments. EDAW will determine if modeled increases to roadway noise levels would adversely affect nearby existing or proposed noise-sensitive land uses.

EDAW will also provide a qualitative analysis of the compatibility of the proposed land uses with the existing and future predicted noise environments, including operational noise from on-site and off-site mobile and stationary sources, and noise from proposed commercial uses.. The potential of short-term and long-term noise impacts will be determined based on comparisons with applicable standards. Where necessary, EDAW will provide mitigation measures along with their relative effectiveness.

Public Services and Utilities

This section will address utilities such as electricity, natural gas, and communications, and public services and facilities such as law enforcement, fire protection, schools, solid waste, water, wastewater, and parks and recreation.

EDAW will contact each of the affected public service providers to obtain relevant baseline and regulatory information, solicit input on potential impacts, and to obtain "will-serve" letters, which will be presented in an appendix to the EIR. Project-related demand for services will be estimated and compared against existing capacity and proposed future capacity associated with the project (e.g., potential construction of on-site parks, fire stations, schools, etc.). Service demand will be determined using population projections and land use information provided by the project proponent. Impacts will be based on whether any new facilities would be needed and if construction of such facilities could generate significant impacts. This scope of services does not include an analysis of the proposed specific plan's potential fiscal impact on the City and other service providers. Separate detailed task descriptions for the water and wastewater analyses are provided below.

An existing Turlock Irrigation District canal that presently transects the project site will need to be re-routed and/or placed in a pipe to allow for the installation of certain public utilities. This will be noted in the EIR and any potential environmental impact of this action will be assessed.

Water

Please refer to the scope of services described below by West Yost Associates (WYA). EDAW will prepare this EIR section based on the technical report prepared by West Yost Associates.

Subtask W1: **Review Available Data and Projected Water Demands.** Based on the land use plans for the project, to be provided to WYA by EDAW, we will estimate the average day, maximum day, and peak hour demands for the proposed project. WYA will also discuss fire flow criteria and residual pressures required at the hydrants serving the project. We will describe, in a technical memorandum (TM) to be prepared in Subtask W2, the estimated water demands by land use type for the proposed project. A comparison to the water demands previously calculated in the Draft Fairview Specific Plan prepared by others also will be provided. No phasing plans will be included in this analysis, but project phasing could be provided as an additional service if a corresponding budget augmentation is approved.

To facilitate our work on this task and others, WYA requests electronic files containing the proposed land use designations and all landscaping areas for the project, and a graphic that provides the alignment and size of all proposed water lines, and location of proposed streets/roads at the proposed project site.

The information contained in the South Modesto Water Study will be used as a basis for the analysis of the water system required for the Fairview Village project.

Subtask W2: **Update the Hydraulic Model and Analyze the System.** The City's existing water system hydraulic model will be modified to be representative of the new water demand of the project. These hydraulic model system modifications will include planned distribution system pipelines and other water facilities, and the major allowable connections to the City's existing water system. Projected demands will be distributed throughout the project area, according to the projected land use demands.

Using this modified hydraulic model of the City's existing water system, WYA will evaluate the potential hydraulic impacts of these increased water demands and fire flow analyses on the City's existing water system. The water system will be evaluated for criteria such as: supply availability, delivery pressure, maximum water velocity and head loss in pipelines under various demand conditions (including fire flows), system pressures, and system redundancy/reliability. If the City's existing water system cannot meet the City's minimum water system design criteria with the increased demands of the proposed project at buildout, WYA will make recommendations for whatever new water facilities are required to mitigate the hydraulic impacts of the project. Required water facilities could include any or all of the following: new and/or rehabilitated wells, development/participation in new sources of supply, water storage tanks, booster pump station, additional connections into the existing City system and additional distribution/looping pipelines.

WYA will also prepare an estimate of the probable capital cost for the water facilities recommended to be constructed to mitigate the hydraulic impacts of the proposed project on the City's existing water system (on-site water facility costs are specifically excluded from this cost estimate). For identified water supply facilities (wells with wellhead treatment) required for the proposed Project, costs will be based on a proportionate share basis, developed based on a ratio of the required peak hour project demand to the sustainable production capacity for the well.

A 10 to 12-page TM describing the water system evaluation criteria, planned sources of supply, and the required water system infrastructure/facilities required to mitigate the hydraulic system impacts of the project on the City's existing water system will be prepared as the work product of this task. WYA will provide EDAW with three (3) hard copies of the Draft TM, and five (5) hard copies of the Final TM.

If requested, WYA will also meet with EDAW once to coordinate our work activities, report on project status, or to receive comments to the draft TM. Any additional meetings or conference calls can be provided if requested, and a budget augmentation is approved.

This technical work is intended to provide an analysis of the ability of the City's existing water system to continue to provide water at adequate pressure and flow to existing customers with the additional system demands of the proposed project at buildout.

Subtask W3: **Prepare Water Supply Assessment.** WYA will prepare a single bound water supply assessment (WSA) report for the entire 360-acre Fairview Village Project in response to SB 610. Additional analysis beyond that required by SB 610 can be performed, if requested, and a corresponding budget augmentation and time extension is approved. No individual WSA's for any of the various individual property owners, or other project phases will be prepared.

Wastewater

Please refer to the scope of services described below by Carollo Engineers. EDAW will prepare this EIR section based on the technical report prepared by Carollo Engineers.

Subtask WW1: **Engineering Support during the EIR Process.** Carollo will provide EDAW with information related to the collection system or WWTP improvements required to support the Fairview Village development. For budgetary purposes, a total of 60 hours of engineering effort has been assumed, including attendance at up to two meetings with the EIR consultant. Work beyond the budget for 60 hours of engineering effort will only be performed after receiving written approval of a budget augmentation.

Subtask WW2: **Capacity Study.** Carollo completed the 2006 Wastewater Collection System Master Plan Study for the City (Master Plan). The work described in this task is supplemental to work completed for the Master Plan and assumes that the City of Modesto or Harris & Associates (HA) will provide the necessary development layout and land use data to complete this Capacity Study. This task includes:

- updating the hydraulic model to reflect changes in planning assumptions that have occurred since the completion of the Master Plan;
- revising sewer improvements to reflect changes in planning assumptions;
- revising the collection system and wastewater treatment plant (WWTP) improvements necessary to accommodate growth based on revisions to the hydraulic model and updates to the WWTP Master Plan;
- developing probable construction cost estimates for recommended capital projects; and
- developing a cost allocation associated with proposed recommended improvements.

Consistent with the Master Plan, revisions to the hydraulic model will not include modeling sewer mains smaller than 10-inches in diameter. Design, including development of plan/profile drawings is outside the scope of these services. It is assumed that HA will provide available ground elevations of the development.

Carollo will provide services on a time-and-material basis against a not-to-exceed maximum fee.

Surface Hydrology and Water Quality

Please refer to the scope of services described below by Stormwater Consulting. EDAW will prepare this EIR section based on the technical report prepared by Stormwater Consulting.

Storm Water Consulting, Inc. (SWC) will prepare a technical report that addresses storm drainage issues and requirements pertaining to the Fairview Village Specific Plan Amendment. The technical report will be utilized by EDAW in their preparation of the Hydrology and Water Quality section of the EIR being prepared for the proposed project under contract with the City of Modesto (City). The technical report will be based on a review and interpretation of information contained in the following documents:

- The City's Draft Storm Drainage Master Plan dated October 2006, or a more current version if available
- Original Fairview Village Specific Plan dated November 1997
- Current Draft Amendment to Fairview Village Specific Plan, including the Master Utilities Plan component of said document
- The City's Design Standards for Dual Use Flood Control/Recreation Facilities document dated December 2000
- The City's Guidance Manual for New Development Stormwater Quality Control Measures
- Current City Design Standards, Chapter 4, Storm Drainage Design
- The City's NPDES Permit
- City Code section addressing Floodplain Regulations
- FEMA Flood Insurance Rate Maps for City of Modesto and Stanislaus County
- Applicable Soils Maps, published by the Natural Resources Conservation District (NRCD)
- Applicable General Orders published by the State Water Resources Control Board pertaining to storm water quality concerns
- Information available from the State of California Division of Safety of Dams (DSOD) pertaining to Jurisdictional Dams within the upstream watershed for the Tuolumne River
- Monthly Climate Summaries for the Modesto area published by the Western Regional Climate Center (WRCC)
- Clean Water Act 303(d) Listing of Impaired Water Bodies

The technical report will summarize pertinent information contained in these documents as they relate to storm drainage requirements and concerns associated with the proposed development of the Fairview Village Specific Plan Amendment. SWC will review the Fairview Village Specific Plan Amendment with regard to impacts associated with its buildout and will provide recommendations within the technical report to reduce any identified significant impacts to levels that are considered to be less than significant. SWC will also provide independent calculations pertaining to detention volume requirements using the HEC-HMS or HEC-1 computer models and compare the results with information provided in the Fairview Village Specific Plan Amendment.

The preparation of onsite or offsite construction drawings or sizing of onsite storm drainage conveyance facilities are not a part of the work effort.

This work will be completed within the time frame of the deliverables shown below:

- Draft technical report - within 6 weeks of Notice to Proceed and receipt of the Fairview Village Specific Plan Amendment document
- Final technical memorandum - within 4 weeks of receipt of comments from the City/EDAW regarding the Draft version of the technical report

SWC will coordinate the work effort with EDAW and the City during the preparation of the technical report.

Traffic and Transportation

Please refer to the scope of services described below by kdAnderson Transportation Engineers (KDA). EDAW will prepare this EIR section based on the technical report prepared by KDA.

***Subtask TT 1*: Study Initiation.** KDA will attend an initiation meeting with the applicant, EDAW and City staff to discuss the City's concerns, our study approach, developer objectives for the project, etc. KDA will go over the schedule for our work and for the EIR as a whole.

Subtask TT 2*: Collect Traffic Volume Data.** KDA will collect the traffic count information needed for our analysis. For the traffic impact analysis KDA will assemble ***a.m. and p.m. peak hour traffic counts at study intersections. Our budget includes new counts at all study intersections, including:

1. Carpenter Road / Maze Blvd (SR 132)
2. Carpenter Road / California Avenue
3. Carpenter Road / Chicago Avenue
4. Carpenter Road / Beverly Drive
5. Carpenter Road / Paradise Road
6. Carpenter Road / Hatch Road
7. Carpenter Road / Whitmore Avenue
8. Carpenter Road / Service Road
9. Carpenter Road / Robertson Road
10. Paradise Road / Harris Avenue / Beverly Drive
11. Paradise Road / Sutter Avenue / Tuolumne Blvd
12. Hatch Road / Monticello Lane
13. Hatch Road / Rancho Encantano Lane
14. Hatch Road / Ustick Road
15. Hatch Road / Dallas Street
16. Hatch Road / Crows Landing Road
17. Hatch Road / SB SR 99 ramps
18. Hatch Road / Herndon Road
19. Crows Landing Road / NB SR 99 ramps
20. Crows Landing Road / SB SR 99 ramps
21. Crows Landing Road Butte Avenue
22. Crows Landing Road / Winmoore Way
23. Crows Landing Road / Glen Avenue
24. Crows Landing Road / Service Road
25. Crows Landing Road / Hackett Road
26. Whitmore Road / Yuma Avenue
27. Whitmore Avenue / Tucson Avenue

28. Whitmore Avenue / Ustick Road
29. Whitmore Avenue / Dallas Street
30. Whitmore Avenue / Crows landing Road
31. Whitmore Avenue / Morgan Road
32. Whitmore Avenue / SR 99 NB ramps
33. Carpenter Road / Plan Area Access (2)
34. Whitmore Avenue / Plan Area Access (2)
35. Hatch Road / Plan Area Access (1)

KDA will employ this data to quantitatively describe current traffic conditions in this area in terms of operating Level of Service at study intersections using the definitions contained in the 2000 Highway Capacity Manual (2000 HCM). However, LOS will be calculated using SYNCHRO – Simtraffic. The extent to which current traffic conditions meet City standards will be determined, and the need for improvements to resolve current problems will be noted.

KDA will also catalogue current traffic volumes on key roadway segments in the area of the project, including:

1. Carpenter Road from Maze Blvd to Hatch Road
2. Carpenter Road from Hatch Road to Whitmore Avenue
3. Carpenter Road from Whitmore Avenue to Service Road
4. Hatch Road from Carpenter Road to Ustick Road
5. Hatch Road from Ustick Road to Crows Landing Road
6. Hatch Road from Crows landing Road to SR 99
7. Dezzani Lane west of Ustick Road
8. Ustick Road from Hatch Road to Tudor Court
9. Ustick Road from Lassen Avenue to Whitmore Avenue
10. Tucson Lane from Lassen Avenue to Whitmore Avenue
11. Whitmore Avenue from Carpenter Road to Ustick Road
12. Whitmore Avenue from Ustick Road to Crows Landing Road
13. Whitmore Avenue from Crows Landing Road to SR 99
14. Paradise Road east of Carpenter Road
15. Paradise Road west of Carpenter Road
16. SR 99 from Crows Landing Road and Whitmore Road

Subtask TT 3: **Evaluate Existing Conditions.** KDA will employ this traffic data to quantitatively describe current traffic conditions in this area in terms of operating Level of Service at study intersections using the definitions contained in the 2000 Highway Capacity Manual (2000 HCM). However, LOS will be calculated using SYNCHRO – Simtraffic.

KDA will create separate SYNCHRO – Simtraffic networks for the four arterial street systems addressed by the study. SYNCHRO–Simtraffic runs will be made for a.m. and p.m. scenarios. The extent to which current traffic conditions require improvements will be noted, including consideration of peak hour traffic signal warrants.

Current peak hour volumes on study area street segments will be compared to City GPU capacities in order to identify current Levels of Service.

Subtask TT 4: **Identify Project Traffic Characteristics.** KDA will quantify the trip generation associated with the land uses within the proposed specific plan based on Institute of Transportation Engineers (ITE) rates and /or rates employed in the City-wide traffic model. The directional distribution of project trips will be determined based on "select link" analysis and consideration of existing travel patterns. Trip generation and distribution assumptions will be shared with City staff prior to continuing with the study.

KDA will provide trip generation estimates for project alternatives.

Subtask TT 5: **Identify Short Term (5 Year plus project) Future Volumes.** Standard City requirements ask for evaluation of a.m. and p.m. peak hour conditions occurring at the anticipated opening year with full build out and occupancy or 5 years whichever is more in the future assuming background traffic growth and implementation of projects in the City's CIP and traffic impacts fee program. KDA will work with City staff to identify applicable traffic volume growth rates for area streets and to create an applicable background condition that reflects of the approved projects. The extent of study area circulation system improvements that should be assumed to be in place in 5 years will be determined in consultation with City staff.

"Plus project" volumes will be identified by superimposing project trips onto the background condition to create the "5 Year Future Plus Project" condition.

Subtask TT 6: **Evaluate Short term Conditions / LOS.** KDA will create a series of SYNCRO – Simtraffic networks for the four EPAP and EPAP plus project scenarios. Roadway segment LOS will also be determined

Subtask TT 7: **Identify Long Term (2025) Traffic Volumes.** Year 2025 traffic volume forecasts will be prepared for overall roadway segments in order to confirm consistency with the GP EIR, and study intersections will also be evaluated under year 2025 p.m. peak hour conditions.

To produce year 2025 forecasts KDA will disaggregate the current citywide traffic model to accurately assign project traffic to the local street system. Resulting p.m. peak hour forecasts will be created in a manner that is consistent with other recent City EIRs.

Subtask TT 8: **Evaluate Year 2025 Impacts.** KDA will modify the SYNCRO – Simtraffic networks for the two Year 2025 scenarios and identify Levels of Service. Necessary mitigation measures will be identified. Roadway segment LOS will also be determined

Subtask TT 9: **Review Project Access.** Proposed project access will be reviewed with regard to City of Modesto standards for intersection spacing, and the extent to which auxiliary lanes / traffic controls are needed will be suggested.

Subtask TT 10: **Identify / Summarize Mitigation Measures.** If unsatisfactory traffic or access conditions are projected KDA will explore alternative mitigation measures and recommend a strategy for reducing impacts to a level of insignificance. However, those impacts that may not be avoidable will be noted as well.

Subtask TT 11:**Prepare Report.** KDA will summarize their evaluation in a written report. The draft report will be provided to EDAW for review prior to finalization for submittal to the City.

Subtask TT 12: **Meetings / Coordination.** In addition to the initiation meeting, KDA may need to meet with the client and/or City of Modesto to go over our draft report with the City. KDA have assumed three (3) meetings, and this cost is included in our budget. KDA have also budgeted for participation at one (1) meeting for Planning Commission review of the project and one (1) meeting for City Council review of the project. Additional meetings with City staff may be necessary, but this cost is not included in their base budget.

Growth-Inducing Impacts

In accordance with Section 15126.2(d) of the State CEQA Guidelines, EDAW will prepare a chapter that evaluates the potential growth-inducing impacts of the project. Potential sources of growth inducement and their impacts, such as removal of obstacles to growth, will be analyzed qualitatively to the extent they are applicable. "Growth-Inducing Impacts" will be included as a separate section within a chapter entitled, "Other Statutory Requirements."

Irreversible and Irretrievable Commitment of Resources

EDAW will identify any irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented. Irreversible and irretrievable resource commitments are related to the use of nonrenewable resources and the effects this use could have on future generations. Irreversible effects primarily result from the use or destruction of a specific resource (e.g., energy and minerals) that cannot be replaced within a reasonable timeframe. Irretrievable resource commitments involve the loss in value of an affected resource that cannot be restored as a result of the action (e.g., extinction of a threatened or endangered species or the disturbance of a cultural resource). This section will be included as a separate section within a chapter entitled, "Other Statutory Requirements."

Significant and Unavoidable Impacts

EDAW will summarize significant and unavoidable adverse impacts associated with the proposed project, consistent with the State CEQA Guidelines Sections 15126.2(b) and (c). Included in the discussion will be any impacts that can be partially mitigated, but not to a level that is less than significant. Any mitigation measures eliminated from consideration because of new impacts associated with their implementation also will be discussed. "Unavoidable Adverse Effects" will be included as a separate section within a chapter entitled, "Other Statutory Requirements."

Alternatives

EDAW will work with the project proponents and City to develop a reasonable range of alternative land use diagrams to analyze in the EIR (as required by CEQA). Up to four alternatives will be analyzed. In addition to the No Project alternative, other alternatives might include a Reduced Density Alternative and a Biological Resources Avoidance Alternative. Alternatives are typically confirmed during the environmental analysis. The document will also discuss alternatives that were considered, but eliminated from further consideration. This scope of work assumes that a maximum of three alternatives to the proposed project, including the CEQA-required No Project alternative, will be analyzed.

Cumulative Impacts

Extracted from the General Plan Update Master EIR, the "Cumulative Impacts" chapter will contain the cumulative impact methodology, contributing projects, list of related projects, cumulative context, and

cumulative impact analysis for each resource area identified in the "Environmental Setting, Impacts, and Mitigation Measures" section. The section will be consistent with Section 15130 of the State CEQA Guidelines that defines what constitutes a cumulative impact under CEQA, provide a summary of the projects that are contributing to cumulative impacts, provides the cumulative context, and lists related projects. The analysis will be based on an updated list of proposed, pending, and approved projects, provided by the City.

Following submittal of the Administrative Draft EIR to the City, EDAW's project manager and other appropriate staff will meet with the City's management team to review the ADEIR.

Task 4 Summary	
Products:	First Administrative draft EIR, bound copies (15)
	Second Administrative draft EIR (20)
Meetings:	Meeting with City management team and the project proponent team, to be attended by the EDAW Project Manager (1)

Task 5: Prepare Public Review Draft EIR and CEQA Notices

Purpose

To respond to City comments on the administrative draft EIR, complete necessary revisions, prepare a screen-check draft EIR for approval, publish the EIR for public review, and prepare the Notice of Availability (NOA) for delivery to the State Clearinghouse. It is assumed that the City will be responsible for publishing the NOA in the newspaper of record.

Approach

EDAW will coordinate with City management team; assemble agency comments on, and suggested revisions to, the administrative draft EIR; resolve any substantive issues/concerns; and prepare the public version of the draft EIR.

EDAW's project manager and other appropriate staff will meet with the City's management team to review the Public Review DEIR before it is released for public review.

Task 5 Summary	
Products:	Draft EIR, camera-ready, unbound copy (1)
	Draft EIR, bound copies (75)
	Draft EIR, CD ROM (15)
Meetings:	Meeting with City management team to discuss draft EIR (1)

PHASE 3 – FINAL EIR

Task 6: Prepare Administrative Final EIR and Responses to Draft EIR Comments

Purpose

To prepare an administrative final EIR with written responses to comments received on the publicly circulated draft EIR that raise significant environmental issues and submit for City review. The final EIR will be consist of comment letters, responses to comments, and a revised version of the public review draft EIR indicating text changes in underlining for additions and strikeouts for deletions, with notations to the relevant response to comment.

Approach

EDAW will coordinate with the City management team to review written comments on the draft EIR and comments from public meetings/hearings and develop a strategy and framework for responding to public comments. The comment letters, responses to comments, and EIR text revisions will be reviewed by EDAW for CEQA compliance before submittal of the administrative final EIR to the City.

EDAW will submit the administrative final EIR with draft responses to comments for agency review. Responses that are within this scope and budget consist of explanations, elaborations, or clarifications of the data contained in the draft EIR. EDAW has established a budget of 80 hours (various personnel at specified hourly rates) for responses to comments. This is a budget set aside and would be adjusted based on the overall volume and nature of comments.

Task 6 Summary	
Products:	Administrative final EIR, bound copies (15)
Meetings:	Meeting with City management team to discuss administrative final EIR, responses to comments, and findings (1)

Task 7: Prepare Final EIR

Purpose

To respond to City comments on the administrative final EIR, complete necessary revisions, prepare a screen-check final EIR for approval, publish the final EIR, and prepare the Notice of Determination (NOD) to be posted at the Stanislaus County Clerk's Office.

Approach

EDAW will respond to City comments on, and suggested revisions to, the administrative final EIR; complete necessary revisions; and submit the final EIR to the City for distribution to agencies and the public.

EDAW's project manager and other appropriate staff will meet with the City's management team to review the Final EIR before it is considered by decision makers.

Task 7 Summary	
Products:	Final EIR, camera-ready, unbound copy (1) Final EIR, bound copies (70)
Meetings:	Meeting with City management team to discuss final EIR (1)

Task 8: Public Meetings and Hearings

In addition to meetings with management team described in the earlier task descriptions and in Task 10, EDAW management personnel will be present at and participate in two public meetings, including one Planning Commission and one City Council meeting. Participation at these meetings will provide support to the City management team, help EDAW develop an understanding of the public's comments and concerns, and provide a forum to answer questions on environmental issues. Hearings will be attended by EDAW's management team, so that full consideration can be given to issues raised at hearings. Attendance at additional meetings, if requested, will be billed on a time-and-material basis.

Task 8 Summary	
Meetings:	Attendance at public meetings/hearings by EDAW's Principal-in-charge and Project Manager (2)

Task 9: Project Management and Coordination

Purpose

To manage the EIR preparation effort, maintain close communication between the City management team and EDAW project team members, ensure the technical accuracy and legal defensibility of the work products, and ensure that the project stays on schedule. This is perhaps the most critical task for the successful completion of this project.

Approach

In accordance with the communication protocol established in Task 1, EDAW will communicate on a regular basis throughout all tasks with project team members and City management team regarding compliance with the schedule and scope of work. EDAW will coordinate the work of the team and provide management liaison between the team and the agencies for communication of issues, transmittal of comments, financial management (e.g., invoices), and other project management matters. We will participate in monthly telephone conference coordination meetings with the City's management team. These meetings will cover coordination needed during the EIR preparation process. In addition, we have budgeted for time associated with attendance at monthly meetings in Modesto.

Task 9 Summary	
Meetings:	Monthly telephone coordination meetings (10)
	Monthly in-person coordination meetings (10)

Task 10: Mitigation Monitoring

EDAW will prepare a draft and final mitigation monitoring (MMP) that is consistent with CEQA §21081.6. EDAW anticipates the MMP will include a listing of all mitigation measures and identification of the individuals or organizations responsible for verifying compliance, the phase (or date) of the permit process when each mitigation measure shall be initially implemented, the frequency and duration of required monitoring (if necessary), and the performance criteria for determining the success of the mitigation measure (if appropriate). The MMP will be provided in tabular format. The MMP will be submitted with the Draft EIR in Task 6.

Task 10 Summary	
Products:	Draft Mitigation Monitoring Plan (5)
	Final Mitigation Monitoring Plan (70)

Task 11: CEQA Findings

EDAW will assist City staff with preparation of draft and final written CEQA findings in a standard format for final City action on the project. Findings will be prepared for each significant impact of the project, describing the disposition of the impact and the status of mitigation.

PROPOSED SCHEDULE

Projects must often be performed within very challenging schedules. EDAW strives to understand the client's objectives, and how the environmental documentation fits with other project components, such as planning, into the overall project schedule. EDAW has demonstrated that it has the ability to meet tight timeframes, often on simultaneous projects.

Scheduling systems at EDAW are designed to allocate resources to meet all client due dates, regardless of their timing or the number of deadlines within a given period. EDAW has successfully completed environmental analyses on numerous complex projects with demanding schedules that required attentive project management, coordination and communication. Project managers are responsible for planning and controlling the schedule for a contract. This includes weekly workload management of technical, graphics, word processing and production staff; long-range staffing projections (3 to 6 months); and timeline scheduling for tasks and milestones. The project manager is also responsible for frequent communication with team subconsultants, sufficiently in advance of project milestone deadlines. Ongoing, effective communication will ensure early issue identification and resolution, as needed, prior to the creation of a schedule conflict.

EDAW's proposed schedule for the Fairview Village Specific Plan EIR is provided below.

Task	Week Completed
Phase 1 Project Initiation and NOP	
Notice to proceed	1
Project initiation	1
Draft project description to City	2
Project description approved by City	3
Prepare NOP (2 wks following project description acceptance)	5
City and applicant review NOP (2 wks. ea.)	9
Final NOP to City for distribution	11
Attend Scoping Meetings	During 30-day NOP period
Phase 2 Draft EIR	
Infrastructure Studies[1] (12 wks to complete; start date varies; see bold)	23
City comments on Infrastructure Studies	26
Administrative Draft EIR to City	36 10 wks after Infra Studies
City comments to EDAW on ADEIR	40
2nd Administrative Draft EIR to City	42
City and applicant comment to EDAW on 2nd ADEIR (2 wks. ea.)	44
3rd Administrative Draft EIR to City	46
City and applicant comment to EDAW on 3rd ADEIR (2 wks. ea.)	58
Screen-check Draft EIR to City	50
City comments to EDAW on Screencheck DEIR	52
Draft EIR released to public, Notice of Availability filed	54
Draft EIR public hearing held	During 45-day public review period

Task	Week Completed
Draft EIR public comment period closes	61
Phase 3 Final EIR	
1st Administrative Final EIR and MMP to City	65
City comments to EDAW on 1st Admin Final EIR and MMP	68
2nd Administrative Final EIR and MMP to City	70
City comments to EDAW on 2nd Admin Final EIR and MMP	72
Screen-check Final EIR and MMP to City	74
City comments to EDAW	76
Public circulation of Final EIR	78
Findings of Fact and statement of overriding considerations prepared	TBD
Final EIR public hearing, EIR certification	TBD
Notice of Determination filed	TBD

1/ The following sections of the EIR cannot be completed until the infrastructure studies are completed and accepted: Water, Wastewater, Surface Hydrology/Water Quality, Traffic, Noise, and Air Quality.
2/ This schedule assumes that the comments received are consistent with the effort outlined in the scope of work

COST ESTIMATE

The follow table provides a breakdown of our estimated cost of performing the services described in this Scope of Services.

The preceding work program is based on EDAW's current understanding of the proposed project. As the project description evolves, adjustments to the work program, cost, and schedule may be warranted.

BUDGET ASSUMPTIONS

Our Scope of Services and its associated cost are based on several key assumptions, including the following:

1. The budget is valid for up to six months from the date of submittal/opening, after which it may be subject to revision.
2. City will develop the mailing list for distribution of the EIR and notices. City will be responsible for newspaper cost of publication of notices, which will be billed directly to City, so they are not included in the proposed budget.
3. Photocopy costs included in the proposal are for the specified number of copies of deliverables and reasonable incidental and in-team photocopying. If additional copies of deliverables are needed, they can be provided with an amendment to the proposed budget.
4. Review cycles for preliminary documents are presented in the scope of work. Additional review cycles or additional versions of administrative drafts are assumed to not be needed.
5. The proposed work addresses CEQA requirements of the proposed action. Work related to NEPA compliance, Section 404 compliance, or other permitting processes is not included (although these can be added, as needed, with a contract amendment). Work concludes at the acceptance by the City of the final deliverable.
6. The budget is based on completion of work within an agreed upon schedule. If substantial delay occurs, an amendment of the budget would be warranted to accommodate additional project management time and other costs. Substantial delay is normally defined as 90 days or more.

7. Costs are included for the number of meetings specified in the scope of work. If additional meetings are needed, they can be included with an amendment of the budget.
8. The extent of public comment on a Draft EIR is not predictable. The proposed budget includes a reasonable, preliminary estimate time to respond to comments. EDAW will consult with the City after the evaluation of the comments to determine if the preliminarily estimated budget is sufficient.
9. Costs have been allocated to tasks to determine the total budget. EDAW may reallocate costs among tasks, as needed, as long as the total budget is not exceeded.
10. Once the proposed project description, baseline, and alternatives are approved by the City for analysis in the draft EIR, it is assumed they will not change thereafter. If changes requiring revisions to analysis or re-writing of EIR information occur, an amendment of the budget would be warranted.
11. The CEQA statutes or guidelines may change during the course of this EIR. If amendments require redoing work already performed or substantially increasing effort, a contract amendment may be warranted.

EDAW INC - FAIRVIEW VILLAGE SPECIFIC PLAN AMENDMENT 4 EIR

)ST ESTIMATE (revised 2/28/07)

IAW TASKS Rate/Hour	PIC $195	Proj. Mgr. $130	Env. Analyst $85	Planner $80	Senior Biologist $130	Biologist $90	Senior Archaeologist $105	Hazards $105	Geo/ Soils $100	Air/Noise Specialist $135	Air/Noise Analyst $105	Graphics $90	Word Processing $80	*Total Hours*	*Total Dollars*
PHASE 1 - PROJECT INITIATION															
1. Initiate Project	28	20												48	$8,060
2. Site Reconnaissance and Collect Information	6	12	12	20	6	8	8	4	8	4	8			98	$10,670
3. Notice of Preparation/Scoping	10	16	16	16	4	6	6	6	3	8	10	10	10	121	$13,280
Phase 1 Subtotal	44	48	28	36	12	14	14	10	11	12	18	10	10	267	$32,010
PHASE 2 - DRAFT EIR															
5. Administrative Draft EIR (ADEIR)															
1. Introduction	1	2	4	8								6	2	21	$2,015
2. Executive Summary	2	2	6	12								6	2	30	$2,880
3. Project Description	4	4	8	24								8	2	50	$4,860
4. Environmental Settings, Impacts, Mitigation														0	$0
a. Land Use and Agriculture	2	8	12	40								2	2	66	$6,110
b. Geology/Soils/Minerals/Paleontology	2	6	2	2					16			2	2	32	$3,460
c. Traffic & Transportation (also see sub cost)	4	10	16	6								2	2	40	$4,420
d. Air Quality	2	6	2	4						6	60	2	2	84	$9,130
e. Noise	2	6	2	4						6	60	2	2	84	$9,130
f. Public Utilities and Services (also see sub cost)	4	8	16	60								2	2	82	$8,480
g. Aesthetics	2	6	6	16								6	2	40	$3,980
h. Surface Hydro/Water Quality (also see sub cost)	4	6	4	12								2	2	30	$3,240
i. Biological Resources	2	6	4	2	6	48						2	2	72	$7,150
j. Hazards and Hazardous Materials	2	6	8	2				20				2	2	42	$4,530
k. Cultural Resources	2	6	4	2			16					2	2	34	$3,730
5. Significant & Unavoidable Impacts	4	8	8	4								2	2	26	$2,980
6. Cumulative Impacts	6	12	20	12	1	2	2	2	2	1	2	2	2	66	$7,205
7. Growth-Inducing Impacts	2	10	16	8								2	2	38	$4,030
8. Alternatives	8	16	24	36	1	2	2	2	2	1	2	2	2	100	$10,415
Quality Assurance	24													24	$4,680
Subtotal (Task 5)	79	128	162	250	8	52	20	24	20	14	124	54	36	971	$102,425
6. Public Review Draft EIR and CEQA Notices	18	24	36	48	2	18	6	2	6	8	16	4	12	202	$21,500
Phase 2 Subtotal	97	152	198	298	10	70	28	26	26	22	140	58	48	1173	$123,925
PHASE 3 - FINAL EIR															
7. Admin. Final EIR/Responses to Comments	12	36	60	80	2	12	4	2	4	8	16	2	6	244	$24,910
8. Final EIR	6	16	24	12	1	4	2	1	2	4	4	2	4	82	$8,955
9. Public Meetings and Hearings	16	16	6											38	$5,770
10. Project Management and Coordination	48	96	12											156	$22,980
11. Mitigation Monitoring Program	2	8	16	6									4	36	$3,750
12. CEQA Findings	2	4	8										8	22	$2,310
Phase 3 Subtotal	86	176	126	98	3	16	6	3	6	12	20	4	22	578	$68,675
Total EDAW Labor Hours	227	376	352	432	25	100	48	39	43	46	176	72	80	2018	
Total EDAW Labor Dollars	$44,265	$48,880	$33,440	$34,560	$3,250	$9,000	$5,040	$4,095	$4,300	$6,210	$18,690	$6,480	$6,400		$224,610

DIRECT COSTS	
1. Subconsultants	
Traffic/Transportation (kdANDERSON)	$77,440
Water, incl. WSA (West Yost)	$82,000
Wastewater (Carollo)	$67,700
Stormwater/Water Quality (Stormwater Consulting)	$22,000
Subtotal, Subconsultants	$229,140
2. Admin. Fee for Subconsultants (5%)	$11,457
3. Printing: (rounded to nearest whole $)	
Admin. Draft NOP: 5 + 20 copies, $10 each	$250
Final NOP: 5 + 65 copies, $10 each	$700
ADEIR: 15 + 20 copies, $50 each	$1,750
DEIR: 75 copies, $50 each	$3,750
DEIR, CD ROM, 15 copies, $5 each	$75
AFEIR: 15 copies, $50 each	$750
FEIR: 70 copies, $50 each	$3,500
Draft MMP: 5 copies, $5 each	$25
Final MMP: 70 copies, $5 each	$350
Subtotal, Reproduction	$11,150
4. Other Reproduction	$0
5. Mileage/Parking	$500
6. Maps/Supplies/Photos	$125
7. Postage/Delivery via Certified Mail	$500
8. Records Searches	$350
9. Miscellaneous	$8,072
Total Direct Costs	$261,294
CONTINGENCY (10% - Additional EDAW labor dollars controlled by City staff)	$22,461
TOTAL ESTIMATED EIR FEE	$508,365

City of Modesto
Community and Economic Development Department
Planning Division
Invoice

City of Modesto Account #
Firm Name

Invoice #

Date of Invoice

Billing Period: (dates)

	Budget	Previously Billed	Current Billing	Balance	% Complete
Professional Fees					
(description of professional service provided as outlined in the Scope of Work)	$0.00	$0.00	$0.00	$0.00	#DIV/0!
(description of professional service provided as outlined in the Scope of Work)	$0.00	$0.00	$0.00	$0.00	#DIV/0!
(description of professional service provided as outlined in the Scope of Work)	$0.00	$0.00	$0.00	$0.00	#DIV/0!
	$0.00	**$0.00**	**$0.00**	**$0.00**	**#DIV/0!**
Consultants					
(Type of Consultant and Consultant Name)	$0.00	$0.00	$0.00	$0.00	#DIV/0!
(Type of Consultant and Consultant Name)	$0.00	$0.00	$0.00	$0.00	#DIV/0!
(Type of Consultant and Consultant Name)	$0.00	$0.00	$0.00	$0.00	#DIV/0!
	$0.00	**$0.00**	**$0.00**	**$0.00**	**#DIV/0!**
Reimbursable & Expense Detail					
Principals	$0.00	$0.00	$0.00	$0.00	
Consultants	$0.00	$0.00	$0.00	$0.00	
Reimbursables	$0.00	$0.00	$0.00	$0.00	
	$0.00	**$0.00**	**$0.00**	**$0.00**	
TOTALS	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**#DIV/0!**

Note: Reimbursable and Expense Detail ~ all reimbursable/expense costs must have detailed expense reports / receipts attached.
Budget = $ amount allocated per item and total project.
Previously Billed = $ amount of all previous billings
Current Billing = $ amount (per item) of current invoice
Balance = $ amount remaining. "Balance" = "budget" minus "previously billed" and "current billing".
% Complete = % of work complete per item and total project.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-494

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING OF JANITORIAL SERVICES FOR THE MODESTO CENTRE PLAZA, TO PACIFIC MAINTENANCE CO., SANTA CLARA, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $77,000

WHEREAS, the Parks, Recreation and Neighborhoods Department and the Joint Powers Agency (JPA) requested janitorial services for the Modesto Centre Plaza (MCP) and 1010 Tenth Street Place, and

WHEREAS, janitorial services consist of daily maintenance for offices, restrooms and lobby areas, and special event clean up at the MCP, and

WHEREAS, on December 6, 2005, Council approved Resolution No. 2005-588, authorizing the Purchasing Manager to issue formal Request for Proposals (RFP) for Janitorial Services for the Parks, Recreation and Neighborhoods Department and JPA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, in August 2006, the JPA removed itself from the City's RFP process and aligned with Stanislaus County on an RFP the County was preparing, and

WHEREAS, on November 14, 2006, the Purchasing Division issued Request for Proposal No. 0607-22 for the furnishing of Janitorial Services for the MCP to thirty-two (32) prospective proposers, twelve (12) of which were local companies, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, on January 9, 2007, RFP's were formally opened in the City Clerk's office. Of the thirty-two (32) prospective proposers, six (6) companies choose to respond, two (2) of which were local companies, and

WHEREAS, on May 15, 2007, the City received a letter from one of the prospective proposers withdrawing their proposal submittal from the RFP process, and

WHEREAS, on May 21, 2007, proposer interviews here held, and

The following companies were in attendance:

- A&N Cleaning, Modesto, CA
- ABM Janitorial Services, Modesto, CA
- Clean Innovation Corporation, Santa Clara, CA
- Pacific Maintenance Company, Santa Clara, CA
- Universal Building Services, Richmond, CA, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommends the award of proposal and contract to Pacific Maintenance Co., Santa Clara, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $77,000, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of proposal and contract for the furnishing of janitorial services for the MCP, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the furnishing of Janitorial Services for the MCP, to Pacific Maintenance Co., Santa Clara, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $77,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-495

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO SOLICIT BIDS FOR NEW VEHICLES AND HEAVY EQUIPMENT THROUGHOUT FY 07/08 THROUGH VARIOUS COMPETITIVE PROCESSES AND IN A CUMULATIVE AMOUNT NOT TO EXCEED THE BUDGETED AMOUNT OF $3,286,250, AND AUTHORIZING THE PURCHASING MANAGER TO PURCHASE SIXTEEN (16) USED VEHICLES AT WHOLESALE AUCTION, THROUGH CAR RENTAL AGENCIES' RENTAL RETURNS OR THROUGH OTHER COMPETITIVE PROCESSES FOR AN ESTIMATED TOTAL BUDGETED AMOUNT OF $264,000.

WHEREAS, the City has an ongoing need to purchase vehicles and heavy equipment throughout the year, and

WHEREAS, the expenditures for vehicles and heavy equipment have been approved by Council through the budget process, and

WHEREAS, the vehicles and heavy equipment are purchased by means of formal and informal bid processes, auction, negotiation, and by "piggybacking" off State contracts and other agencies' competitively bid contracts, and

WHEREAS, in past years Council has authorized the Purchasing Manager to solicit bids and go to auction for said vehicles and heavy equipment without having to go before the Finance Committee and the Council for authorization to issue bids, and

WHEREAS, each vehicle and/or heavy equipment staff report that goes through this process takes approximately 90-120 days to complete and on average accounts for approximately fifteen (15) hours of staff time to process, and

WHEREAS, by authorizing the Purchasing Manager to purchase budgeted vehicles and heavy equipment for the entire fiscal year without returning to Council for subsequent approval for the solicitation of bids, the following benefits are realized:

- Reduces staff time when preparing for and conducting the bidding process,
- Avoids the possibility of missing manufacturer cut-off ordering dates,
- Improves delivery time of new vehicles allowing them to be put into service sooner,
- Improves reaction time as "good deals " become available, and

WHEREAS, by authorizing the Purchasing Manager or his designee to solicit bids and attend auctions to purchase vehicles and equipment for the entire fiscal year without having to go before Council for bid/purchasing approval the City will save substantial staff and processing time, and

WHEREAS, the request for authorization to award bid and contract for new vehicles and equipment will still come before Council and conform to Modesto Municipal Code (MMC) Section 8-3.203(a), and

WHEREAS, the Purchasing Division will continue to work at increasing local vendor inclusion in the bidding process, and

WHEREAS, upon approval by Council the Purchasing Manager will solicit bids for new vehicles and heavy equipment throughout FY 07/08 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of $3,286,250, and

WHEREAS, upon approval by Council the Purchasing Manager, or his designee, will purchase sixteen (16) used vehicles at auction, through car rental agencies' rental returns or through various competitive processes for an estimated total budgeted amount of $264,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to solicit bids for new vehicles and equipment throughout FY 07/08 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of $3,286,250, returning to Council for authorization to award said new vehicles and equipment.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to purchase sixteen (16) used vehicles at auction, through car rental agencies' rental returns or through various competitive processes without returning to Council for authorization to award said used vehicles and in a cumulative amount not to exceed the budgeted amount of $264,000.

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-496

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF ROCK, SAND AND GRAVEL FOR THE FINANCE DEPARTMENT, CENTRAL STORES DIVISION, TO TWO COMPANIES: 1) CENTRAL VALLEY CONCRETE, INC., MERCED, CA., AND 2) DJ ROCHA TRUCKING, INC., HILMAR, CA., FOR A ONE-YEAR AGREEMENT WITH A ONE-YEAR EXTENSION OPTION, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $261,442, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE AGREEMENTS TO THE TWO COMPANIES.

WHEREAS, the Finance Department, Central Stores Division inventories rock, sand and gravel for use by the Public Works Department, and

WHEREAS, the rock, sand and gravel is used for rock well drainage, sand for parks, street maintenance operations, and wastewater pond erosion control, and

WHEREAS, Central Stores will purchase the required rock, sand and gravel from account 7110-120-8311-0439 and the Public Works Department will then purchase the rock, sand and gravel from Central Stores, with charges being made to appropriate accounts, and

WHEREAS, on April 24, 2007, Council approved Resolution No. 2007-221 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of rock, sand and gravel, for the Finance Department, Central Stores Division, and

WHEREAS, on May 15, 2007, the Purchasing Division issued Request for Bid No. 0607-48 for the purchase of rock, sand and gravel to twenty-nine (29) prospective bidders, four (4) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on May 22, 2007, a bidders conference was held, and

WHEREAS, six (6) companies were in attendance, and

WHEREAS, on June 12, 2007, RFB's were formally opened in the City Clerk's office, and

WHEREAS, of the twenty-nine (29) prospective bidders, nine (9) companies chose to respond, and

WHEREAS, two (2) companies submitted only one (1) original bid document, and

WHEREAS, RFB language requires bidders to submit two (2) original and three (3) copies, failure to furnish two (2) "inked" signed original bid documents shall result in disqualification, and

WHEREAS, both companies bid submittals were disqualified due to being non-responsive and received on further consideration, and

WHEREAS, RFB specification 3.1 Required Documents, states:

- Failure to furnish the two (2) "inked" signed originals bid documents will result in disqualification.
- Failure to furnish the required documents may result in disqualification.

WHEREAS, based on being deemed the lowest responsive and responsible bids, City staff recommends the award of bid and contracts for the purchase of rock, sand and gravel for the Finance Department, Central Stores Division, to two companies: 1) Central Valley Concrete, Inc., Merced, CA., and 2) DJ Rocha Trucking, Inc., Hilmar, CA., for a one-year agreement, with a one-year extension option, at the sole discretion of the City, for an estimated annual cost of $261,442, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services be formally bid. The award of bid and contracts for the purchase of rock, sand and gravel conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the purchase of rock, sand and gravel for the Finance Department, Central Stores Division, to two (2) companies: 1) Central Valley Concrete, Inc., Merced, CA., and 2) DJ Rocha Trucking, Inc., Hilmar, CA., for one-year agreement with a one-year extension options, at the sole discretion of the City, for an estimated annual cost of $261,442.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue purchase agreements for the purchase of rock, sand and gravel to two (2) companies: 1) Central Valley Concrete, Inc., Merced, CA., and 2) DJ Rocha Trucking, Inc., Hilmar, CA., for a one-year agreement, with one-year extension option, at the sole discretion of the City, for an estimated annual cost of $261,442.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-497

A RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF $50,293 FOR THE PROVISION OF ONE HALF OF A MODESTO POLICE OFFICER'S/SCHOOL RESOURCE OFFICER'S (SRO) SALARY AND BENEFITS AT PETERSEN ALTERNATIVE CENTER FOR EDUCATION (P.A.C.E.) CAMPUS TO PROVIDE DIRECT LAW ENFORCEMENT SERVICES, EXPERTISE AND TRAINING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Stanislaus County Office of Education requires one Modesto Police Officer to provide direct law enforcement services, expertise and training and act as a School Police Officer at Petersen Alternative Center for Education (P.A.C.E.) campus, and

WHEREAS, the Modesto Police Department can provide a specially trained, uniformed police officer and take any enforcement action at the school site, if warranted, and

WHEREAS, the officer's presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the term of this agreement is August 22, 2007 to June 6, 2008, and

WHEREAS, the City shall be compensated by the Stanislaus Office of Education in the amount of $50,293 for the services of this Modesto Police Officer, and

WHEREAS, the City will match the amount of $50,293 in partnership with the Stanislaus County Office of Education,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the City of Modesto and the Stanislaus County Office of Education in the amount of $50,293 for the provision of one-half of a

Modesto Police Officer/School Resource Officer salary and benefits to provide direct law enforcement service, expertise and training.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-498

A RESOLUTION APPROVING THE CONCEPTUAL SUPPORT OF THE FIGHT CRIME: INVEST IN KIDS *CALIFORNIA* AUTHORIZING THE MODESTO POLICE CHIEF TO SIGN A LETTER OF SUPPORT TO THE STATE POLICYMAKERS TO SUPPORT CRIME-PREVENTION INVESTMENTS

WHEREAS, in the coming year, FIGHT CRIME; INVEST IN KIDS *California*, has an opportunity to make a big difference in the battle against crime by helping support increased investments in crime-prevention programs or preserve existing state funding, and

WHEREAS, the Modesto Police Department, supports this legislation, and

WHEREAS, this legislation takes steps to prevent kids from ever becoming involved in crime—such as providing quality preschool, child care, and after-school programs; interventions for troubled youth; and child abuse and neglect prevention, and

WHEREAS, this legislation would support programs such as the Modesto Police Department's Police Activities League (PAL) and after-school programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a support letter to State Policymakers on FIGHT CRIME: INVEST IN KIDS *California,*

BE IT FURTHER RESOLVED that the Modesto Ppolice Chief is hereby authorized to sign a letter of support to the State Policymakers to support crime-prevention investments.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-499

A RESOLUTION ACCEPTING TWO PROJECT SAFE NEIGHBORHOOD GRANTS FOR (1) GANG AND GUN VIOLENCE REDUCTION IN THE AMOUNT OF $123,000 FOR A POLICE CLERK FOR TWO YEARS AND (2) GUN VIOLENCE REDUCTION PROGRAM GRANT IN THE AMOUNT OF $100,000 FROM THE DEPARTMENT OF JUSTICE FOR A GANG REDUCTION STRATEGIC COORDINATOR FOR ONE YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the Modesto Police Department submitted an application for two project Safe Neighborhood Grants, and

WHEREAS, the Gang and Gun Violence Reduction will allow for the continuation of an existing police clerk position for two years, which was funded by a Project Safe Neighborhoods Gun Violent Reduction Grant awarded in 2004, and

WHEREAS, the Gun Violence Reduction Program Grant in the amount of $100,000 will provide for a limited-term position for a Police Office position (Gang Reduction Strategic Coordinator) for the life of the grant, and

WHEREAS, acceptance of these grants enhances Healthy and Safe Strategic Action Plan, H.1.B.8., which calls for obtaining public service grants, and

WHEREAS, the there is no local match required of the City, and

WHEREAS, these grants will focus on decreasing the gang-related activity and gang-related crimes that occur in Stanislaus County,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the two project safe neighborhood grants for (1) Gang and Gun Violence Reduction in the amount of $123,000 for a Police Clerk for two years and (2) Gun violence Reduction Program Grant in the amount of $100,000 from the Department of Justice for a Gang Reduction Strategic Coordinator for one year,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-500

A RESOLUTION AMENDING THE MULTI-YEAR REIMBURSEABLE GRANT BUDGET TO APPROPRIATE $223,000 FOR REVENUES AND EXPENSES FROM THE DEPARTMENT OF JUSTICE FOR THE PROJECT SAFE NEIGHBORHOOD GRANTS FOR A POLICE CLERK FOR TWO YEARS AND A GANG REDUCTION STRATEGIC COORDINATOR FOR ONE YEAR

WHEREAS, the Modesto Police Department submitted an application for two project Safe Neighborhood Grants, and

WHEREAS, the Gang and Gun Violence Reduction will allow for the continuation of an existing police clerk position for two years, which was funded by a Project Safe Neighborhoods Gun Violent Reduction Grant awarded in 2004, and

WHEREAS, the Gun Violence Reduction Program Grant in the amount of $100,000 will provide for a Gang Reduction Strategic Coordinator for one year, and

WHEREAS, acceptance of these grants enhances Healthy and Safe Strategic Action Plan, H.1.B.8., which calls for obtaining public service grants, and

WHEREAS, the there is no local match required of the City, and

WHEREAS, these grants will focus on decreasing the gang-related activity and gang-related crimes that occur in Stanislaus County,

WHEREAS, the Council of the City of Modesto authorized the City Manager, or his designee, to accept the Project Safe Neighborhood funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the multi-year reimbursable grant budget is hereby amended as follows:

PSN Gang and Gun Violence Reduction Grant

Appropriate:			
To:	0410-190-2906-0110	$115,000	Police Clerk
	0410-190-2906-0209	$ 8,000	Training
Revenue:			
To:	0410-190-2906-3490	$123,000	PSN Gang and Gun Violence Reduction Grant

PSN Gun Violence Reduction Program Grant

Appropriate:			
To:	0410-190-2907-0110	$100,000	PSN Gang Reduction Strategic Coordinator
Revenue:			
To:	0410-190-2907-3490	$100,000	PSN Gun Violence Reduction Program Grant

BE IT FURTHER RESOLVED that the Finance Director, or his authorized designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-501

A RESOLUTION APPROVING A SUBTRUNK SEWER REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND KAISER FOUNDATION HOSPITALS, IN AN AMOUNT NOT TO EXCEED $168,829.54, RELATED TO THE INSTALLATION OF 2380 LINEAR FEET OF A 27" SEWER SUBTRUNK LINE IN HEALTHCARE WAY AND DALE ROAD, AND 651 LINEAR FEET OF 30" SEWER SUBTRUNK IN DALE ROAD, WHICH ARE OVERSIZED TO SERVE A LARGER PORTION OF THE KIERNAN BUSINESS PARK SPECIFIC PLAN, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, KAISER FOUNDATION HOSPITALS (Developer) is in the process of developing a new hospital facility located at the southwest corner of Dale Road and Bangs Road, commonly known as Kaiser Modesto Hospital (Improvements), and

WHEREAS, in connection with the development of said Improvements, Developer is required to install 2380 linear feet of 27" and 651 linear feet of 30" Sewer Subtrunk Lines and appurtenances thereto, located at the southwest corner of Dale Road and Bangs Road, and

WHEREAS, the Improvements are designed to serve a large portion of the Kiernan Business Park Specific Plan, and

WHEREAS, the Improvements will serve other properties in addition to this development and,

WHEREAS, the other properties have or will pay fees to the City to assist in paying the cost of constructing the Improvements and the owners of said other properties have not participated in constructing the Improvements, and

WHEREAS, Modesto Municipal Code Section 4-4.802.1 authorizes the City to enter into an Agreement with the Developer for reimbursement of costs of improvements, and

WHEREAS, Developer has requested, and City has agreed, that Developer be reimbursed for the actual costs, in the amount of $168,829.54, required to construct the Improvements, and

WHEREAS, City has inspected the construction of the Improvements and has accepted the Improvements as part of City's public sewer system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Subtrunk Sewer Reimbursement Agreement between the CITY OF MODESTO and Kaiser Foundation Hospitals, in an amount not to exceed $168,829.54, related to the installation of 2380 linear feet of 27" and 651 feet of 30" Sewer Subtrunk Lines.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on August 14th August, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-502

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE "2005-2006 PAVEMENT REHABILITATION PROGRAM- 9TH STREET RECONSTRUCTION L STREET TO MODESTO IRRIGATION DISTRICT LATERAL NO. 4 AND 9TH STREET OVERLAY B STREET TO D STREET STPL-5059(143)" PROJECT, ACCEPTING THE BID AND APPROVING A $1,156,256.90 CONTRACT WITH TOM MAYO CONSTRUCTION, INC., FOR THE PROJECT TITLED, "2005-2006 PAVEMENT REHABILITATION PROGRAM- 9TH STREET RECONSTRUCTION L STREET TO MODESTO IRRIGATION DISTRICT LATERAL NO. 4 AND 9TH STREET OVERLAY B STREET TO D STREET STPL-5059(143)," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "2005-2006 Pavement Rehabilitation Program- 9th Street Reconstruction L Street to Modesto Irrigation District Lateral No. 4 and 9th Street Overlay B Street to D Street STPL-5059(143)" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the "2005-2006 Pavement Rehabilitation Program- 9th Street Reconstruction L Street to Modesto Irrigation District Lateral No. 4 and 9th Street Overlay B Street to D Street STPL-5059(143)" project were opened at 11:00 a.m. on July 24, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $1,156,256.90 received from Tom Mayo Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Tom Mayo Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Tom Mayo Construction, Inc., in the amount of $1,156,256.90, and hereby awards Tom Mayo Construction, Inc., the contract titled "2005-2006 Pavement Rehabilitation

Program- 9th Street Reconstruction L Street to Modesto Irrigation District Lateral No. 4 and 9th Street Overlay B Street to D Street STPL-5059(143)"

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-503

A RESOLUTION APPROVING A NEW FIFTEEN-YEAR AIRPORT LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO FLIGHT CENTER, INC. AND RICHARD CORBETT, INDIVIDUALLY (MFC, INC.), FOR USE OF SPECIFIC AIRPORT PROPERTY TO CONTINUE A BUSINESS PROVIDING FLIGHT INSTRUCTION, AIRCRAFT MAINTENANCE, PILOT SUPPLIES, AIRCRAFT RENTAL AND OTHER SERVICES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, Modesto Flight Center (MFC) has leased multiple properties at Modesto City County Airport since 1994 for the operation of a business providing flight instruction, aircraft maintenance, pilot supplies, aircraft rental, and other related services, and

WHEREAS, MFC owners recently sold their business to Modesto Flight Center, Inc. and Richard Corbett Individually (MFC, Inc.), and

WHEREAS, MFC, Inc. wishes to lease all of the airport premises previously leased to MFC for continued operation of a business providing flight instruction, aircraft maintenance, pilot supplies, aircraft rental and other related services, and

WHEREAS, the leased premises consist of the following:

(a) Office Building No. 1
(b) Hangar No. 5
(c) A portion of the former Airport Administration Building
(d) Aircraft tie-down spaces in a number and location as needed, agreed in concurrence with Airport Manager

, and

WHEREAS, the Airport, General Aviation tenants and the local economy benefit from the continuation of such business operations as were provided by MFC, and

WHEREAS, the lease agreement is expected to continue revenues of approximately $36,000 a year to the Airport Enterprise Fund Revenue Account No. 6310-440-5412-4413, and

WHEREAS, the City's policy as stated in Modesto Municipal Code Section 7-3.417 is to enter into lease agreements at Modesto City-County Airport.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new fifteen-year Airport Lease Agreement between the City of Modesto and Modesto Flight Center, Inc. and Richard Corbett, Individually (MFC, Inc.), for the use of specific airport property to continue a business providing flight instruction, aircraft maintenance, pilot supplies, aircraft rental, and other services.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

by _____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-504

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND RBF CONSULTING IN AN AMOUNT NOT-TO-EXCEED $285,469 FOR THE DESIGN OF ROSELLE AVENUE BETWEEN SYLVAN AVENUE AND FLOYD AVENUE, AND AUTHORIZING THE COMMUNITY FACILITIES DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Village One Facilities Master Plan contains a project prioritization list, and

WHEREAS, the widening of Roselle Avenue between Sylvan Avenue and Floyd Avenue is designated as a Priority 3 project and sufficient funding is available for its design in the Village One #2 CFD No. 2004-1, and

WHEREAS, this project will include the widening of Roselle Avenue to a 4-lane arterial between Sylvan Avenue and Floyd Avenue and will include curb, gutter and sidewalk, landscaped median and landscaped parkway strips, and

WHEREAS, the project will also include the construction of two, 2-lane roundabouts at the intersection of Roselle Avenue and Hillglen Avenue and at the intersection of Roselle Avenue and Kodiak Drive, and

WHEREAS, the selection for engineering design services followed the City's selection procedures for professional consultants as outlined in Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, and

WHEREAS, City staff sent a Request for Qualifications for engineering design services to civil engineering firms that had previously indicated an interest in providing design services to the City, and

WHEREAS, eight consulting firms were asked to provide a proposal on various projects and were interviewed by City staff, and

WHEREAS, RBF Consulting was considered to be the most qualified for the Roselle Avenue between Sylvan Avenue and Floyd Avenue design project, and

WHEREAS, City staff recommends that an Agreement with the consulting firm of RBF Consulting be approved to perform the design services as current workload levels do not provide for timely in-house design, and

WHEREAS, City desires to enter into an Agreement with RBF Consulting in an amount not-to-exceed $285,469 for the design of Roselle Avenue between Sylvan Avenue and Floyd Avenue, and

WHEREAS, RBF Consulting will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto Community Facilities District No. 2004-1 (Village One #2) and RBF Consulting in an amount not-to-exceed $285,469 for the design of Roselle Avenue between Sylvan Avenue and Floyd Avenue.

BE IT FURTHER RESOLVED that the Community Facilities District Administrator, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-505

A RESOLUTION AMENDING RESOLUTION NO. 2004-167 TITLED "A RESOLUTION ADOPTING POLICIES AND PROCEDURES AND ESTABLISHING FEES FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT FACILITIES AND SERVICES AND RESCINDING RESOLUTION NO 98-237" TO ESTABLISH A NEW WEEKDAY NON-PROFIT RENTAL RATE OF $1 PER HOUR FOR SENIOR CITIZEN BASED ORGANIZATIONS THAT ACHIEVE CO-SPONSORSHIP STATUS AT THE MODESTO SENIOR CITIZENS CENTER AND TO LIMIT THE NON-PROFIT RATE FOR OTHER QUALIFIED USERS TO WEEKDAYS ONLY.

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2021-245

WHEREAS, on October 10, 1977, Modesto Senior Citizens, Inc. (MSCI), a non-profit group comprised of senior citizens, entered into an agreement with the City of Modesto to pay $100,000 towards the cost of expansion and remodeling of the Modesto Senior Citizens Center, located at 211 Bodem Street, and

WHEREAS, throughout the 30-year agreement, there have been changes in city staff assigned to work at the Modesto Senior Citizens Center, leadership of the non-profit organization, and membership of the MSCI, and

WHEREAS, in 1977, the Modesto Senior Citizens, Inc. was a large and active organization with over 2,000 members and a healthy fund reserve and currently, there are approximately 400 MSCI members, and the organization has not only decreased in membership numbers, but also in the size of its budget and funds in reserve, and

WHEREAS, in addition to the MSCI, there are several other senior citizen based organizations that have approached the City of Modesto regarding the current rental rates at the Modesto Senior Citizens Center, and

WHEREAS, many of these organizations are finding it difficult to pay the full non-profit rental rate in addition to their other expenses, and

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department (PRND) is proposing a new weekday "non-profit senior citizen rate" of $1.00 per hour for senior citizen based organizations that achieve co-sponsorship status and utilize the Modesto Senior Citizens Center on a regular basis which would apply anytime during weekdays (Monday to Friday), and

WHEREAS, staff is recommending that the non-profit rental rate of one-half the regular rental rate ($242.50 for the first 4 hours and $14 each additional hour) be valid for other non-profit use Monday through Friday only, and

WHEREAS, because of the huge demand by the community for banquet/reception type events, such as weddings/wedding receptions, and other special events, staff proposes that all organizations/users using the Modesto Senior Citizens Center during the weekends pay the regular rental rate that became effective July 1, 2007, of $485 for a 4-hour period and $28 for each additional hour, and

WHEREAS, on June 21, 2007, at a meeting between City staff and the Board of Directors from MCSI there was general consensus from the MCSI Board of Directors regarding the City's proposal on the new rentals rates, and

WHEREAS, the Safety and Communities Committee (S&C) met on July 2, 2007, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Resolution No. 2004-167 "A Resolution adopting policies and procedures and establishing fees for the Parks, recreation and Neighborhoods Department facilities and services and Rescinding Resolution No 98-237" is hereby amended to establish a new weekday non-profit rental rate of $1 per hour for senior citizen based organizations that achieve co-sponsorship status at the

Modesto Senior Citizens Center and to limit the non-profit rate for other qualified users to weekdays only.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Keating was upon roll call carried and the resolution adopted by the following vote:

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

Attest: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED

DEC - 4 2007

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2007-729

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-506

A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, AND RESCINDING RESOLUTION NO. 2007-173

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f (2) of the City's Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City's garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

WHEREAS, new maximum rates were calculated, and a recommendation for a new maximum rate schedule was developed, which included a recommendation that quarterly adjustments to the fuel component of the maximum rates be made, and

WHEREAS, the Solid Waste Advisory Committee met on July 26, 2007, and supported the recommendation to approve adjustments to the maximum rate schedule for City

residential, commercial and industrial solid waste collection services, including the recommendation for quarterly fuel adjustments to the maximum rates, and

WHEREAS, a report dated July 26, 2007, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on August 14, 2007, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, at which date and time a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for Garbage Service attached hereto, marked **Exhibit "1"** and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Maximum Charges for Garbage Service as attached hereto, marked Exhibit "1" and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and all other residential services as stipulated in the Service Agreements and shall become effective retroactive to August 1, 2007, and shall remain in effect until revised by Council.

BE IT FURTHER RESOLVED that any person who has prepaid garbage service charges for residential garbage service shall be entitled to receive garbage service for the balance of said prepaid period at the prepaid rates.

BE IT FURTHER RESOLVED that Resolution No. 2007-173 is hereby rescinded, effective retroactive to August 1, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS

Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:

- One, 96-gallon container for garbage/recyclables
- One, 96-gallon container for green waste
- Blue bag recycling
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment

Standard container service customers may opt for smaller containers; however, maximum rates apply. Containers must be placed in a location set forth in Section 5-5.11 of the Municipal Code.

1. **Standard container service** –

   a. The maximum rate for new sign ups for service or changes in service that occur after July 1, 1996, shall be **$19.82 per month** regardless of size of container. **A fuel component of $0.96 per month is included in the maximum rate for the quarter beginning July 1, 2007 and ending September 30, 2007**. The fuel component may be adjusted quarterly.

   b. The maximum rate for each additional garbage container shall be **$14.76 per month**.

2. **60-gallon container service (grandfathered customers)** –

   a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be **$16.75 per month**. **A fuel component of $0.96 per month is included in the maximum rate for the quarter beginning July 1, 2007 and ending September 30, 2007.** The fuel component may be adjusted quarterly.

   b. The maximum rate for each additional garbage container shall be **$14.76 per month.**

3. **Fuel Component adjustments** - The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October 1/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency.

DETACHABLE CONTAINERS*

Maximum Monthly Rates
Number of Collections Per Week

Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	$ 34.77	$ 59.05	$ 83.30	$ 107.57	$ 131.84	$ 156.11
2 CY	$ 59.05	$ 107.57	$ 156.11	$ 204.64	$ 253.16	$ 301.69
3 CY	$ 83.30	$ 156.11	$ 228.90	$ 301.69	$ 374.50	$ 447.29
4 CY	$ 107.57	$ 204.64	$ 301.69	$ 398.76	$ 495.82	$ 592.89
5 CY	$ 131.84	$ 253.16	$ 374.50	$ 495.82	$ 620.16	$ 738.48
6 CY	$ 156.11	$ 301.69	$ 447.29	$ 592.89	$ 738.48	$ 884.08

* A detachable container rental rate of $10.00 per month is included in the above schedule.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.20 per cubic yard ($0.86) per month for a 1 cubic yard container collected once a week) is included in the maximum rate for the quarter beginning July 1, 2007 and ending September 30, 2007. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

1. **Pick up charge** - $205.95 per pick up
2. **Rental**
   - $0.85 per day up to 7 day maximum rental
   - $3.00 per day for boxes kept 7 or more days without servicing
   - $10.00 per day for boxes kept 21 or more days without servicing
3. **Disposal charge** - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle.

COMPACTORS
Maximum Monthly Rates

Front Loader Type:

Compactor Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6

3 CY	$152.12	$304.24	$456.36	$608.48	$760.60	$912.72
4 CY	$201.72	$403.44	$605.16	$806.88	$1008.60	$1210.32
6CY	$304.24	$608.48	$912.22	$1216.96	$1521.20	$1825.44

Roll-Off Type:

1. **6 CY to 40 CY** $205.95 per pickup
2. **Medical waste compactors** $265.00 per pickup
3. **Washing compactor** $30.00
4. **Disposal Charge:** Actual charge to be paid by customer

EXTRA PICKUPS

1. **Standard containers or equivalent** $3.50 plus $1.38/container
2. **Detachable containers** $12.00 plus $2.75/cubic yard

SPECIAL SERVICE CONDITIONS

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

DETACHABLE CONTAINER ONLY REPLACEMENT AND CLEANING SERVICE

1 CY	1½ CY	2 CY	3 CY	4 CY	5 CY	6 CY
$10.12	$11.00	$12.10	$15.40	$20.24	$25.08	$29.92

NOTATIONS

1. The above maximum rates include a $0.25 per month per household recycling fee, a $0.05 per cubic yard commercial recycling fee, and a $0.25 per ton industrial recycling fee, payable to the City by the garbage company.
2. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-507

A RESOLUTION APPROVING THE MODESTO FIRE DEPARTMENT'S 2008-2012 STRATEGIC PLAN.

WHEREAS, the goal of the Strategic Plan is to clearly identify the mission, the operational system, and the future goals of the Modesto Fire, and

WHEREAS, the Strategic Plan is a culmination of a variety of planning processes, which have taken place over the past eighteen (18) years, and

WHEREAS, many pieces of the Strategic Plan have been adopted in other planning documents by the City Council and are recognized as industry "best practices", and

WHEREAS, the Strategic Plan addresses Fire Department expansion, in an attempt to keep pace with growth in the community and maintain the high service level established by the City Council, and

WHEREAS, in 2006, the Modesto Fire Department embarked on the International Accreditation project through the Center for Public Safety Excellence, and

WHEREAS, a Strategic Plan is an essential element of the fire accreditation project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Modesto Fire Department's 2008-2012 Strategic Plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-508

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF MICHAEL NAVARRO FROM THE BOARD OF ZONING ADJUSTMENT

WHEREAS, MICHAEL NAVARRO was appointed a member of the Board of Zoning Adjustment on March 23, 2004, and

WHEREAS, MICHAEL NAVARRO has tendered his resignation from the aforementioned committee, and

WHEREAS, MICHAEL NAVARRO has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of MICHAEL NAVARRO from the Board of Zoning Adjustment hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to MICHAEL NAVARRO for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-509

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF ALAN STRAUSS FROM THE COMMUNITY QUALITIES FORUM

WHEREAS, ALAN STRAUSS was appointed a member of the Community Qualities Forum on October 17, 2000, and

WHEREAS, ALAN STRAUSS has tendered his resignation from the aforementioned committee, and

WHEREAS, ALAN STRAUSS has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of ALAN STRAUSS from the Community Qualities Forum hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to ALAN STRAUSS for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

090407/CMO/Puckett

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-510

Print

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JULIE (WALTON) HOLLY FROM THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, JULIE (WALTON) HOLLY was appointed a member of the Citizens Advisory Committee on Recycling on September 6, 2005, and

WHEREAS, JULIE (WALTON) HOLLY has tendered her resignation from the aforementioned committee, and

WHEREAS, JULIE (WALTON) HOLLY has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of JULIE (WALTON) HOLLY from the Citizens Advisory Committee on Recycling hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to JULIE (WALTON) HOLLY for her outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-511

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF WILLIE McDANIEL FROM THE PLANNING COMMISSION

WHEREAS, WILLIE McDANIEL was appointed a member of the Planning Commission on February 28, 2006, and

WHEREAS, WILLIE McDANIEL has tendered his resignation from the aforementioned committee, and

WHEREAS, WILLIE McDANIEL has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of WILLIE McDANIEL from the Planning Commission hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to WILLIE McDANIEL for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-512

A RESOLUTION AMENDING THE FISCAL YEAR 2007-08 OPERATING BUDGET TO ALLOCATE $50,000 FROM 0100-800-8000-8003, THE GENERAL FUND RESERVE, TO 0100-300-3001-0255 ($45,000), ADMINISTRATION SERVICE CREDITS, AND 0100-300-3001-0315 ($5,000), ADMINISTRATION VOCATIONAL AND RECREATIONAL SUPPLIES, FOR MOBILE HOME ORDINANCE GUIDELINES AND PROCEDURES.

WHEREAS, over the past several months, the City Council Finance Committee and the City Council have been studying issues regarding rent stabilization as it applies to the mobile home parks located in Modesto, and

WHEREAS, on August 14, 2007, by motion, the Modesto City Council took actions to accept the market study report on mobile homes in Modesto and the Council also introduced a Mobile Home Rent Stabilization Ordinance, and

WHEREAS, at the same meeting, staff from the Parks, Recreation and Neighborhoods Department requested an allocation in the amount of $50,000 from the general fund reserve in order to begin work on ordinance guidelines, policies, procedures, forms and monitoring for the mobile home rent stabilization ordinance and any long term lease items on this subject that may require assistance from staff; however, no formal action was taken on this request, and

WHEREAS, any staff involvement in the rent stabilization ordinance is not eligible for funding through Housing and Urban Development (HUD) monies, and

WHEREAS, since the long-term work load is currently unknown, staff requests a $50,000 general fund reserve allocation in order to begin work on ordinance guidelines, policies, procedures, forms and monitoring, and

WHEREAS, in order to avoid co-mingling of General Fund monies with Federal entitlement funds, staff is recommending that this funding be allocated to the

Administration organization of the parks, Recreation and Neighborhoods Department to be paid to HUD-funded staff through service credits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby amends the Fiscal Year 2007-08 operating budget to allocate $50,000 from 0100-800-8000-8003, the General Fund Reserve, to 0100-300-3001-0255 ($45,000), Administration Service Credits, and 0100-300-3001-0315 ($5,000), Administration Vocational and Recreational Supplies, for Mobile Home Ordinance Guidelines and Procedures.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-513

A RESOLUTION APPROVING AN AMENDMENT TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH PRECISION INSPECTION COMPANY, INC. FOR ADDITIONAL PLAN CHECK SERVICES AND BUILDING PERMIT INSPECTIONS, IN AMOUNT NOT TO EXCEED $50,000, FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED $200,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE ADMENDMENT TO THE AGREEMENT.

WHEREAS, the volume of plan checks and building inspections has continued to grow over the last several years, and

WHEREAS, staffing shortages exist in the plan review area, and

WHEREAS, the target time set for plan review is 10 working days for tenant improvement plans and residential plans and 15 working days for commercial plans, and

WHEREAS, the City had sent commercial plans to Harris & Associates for plan review, and

WHEREAS, the increase in the plan review workload could not be absorbed by Harris & Associates and meet the target time for plan reviews, and

WHEREAS, by Resolution No. 2006-016, the City entered into an Agreement with Precision Inspection Company, Inc. on January 10, 2006 in the amount of $75,000, to assist in conducting plan check services and building permit inspections, and

WHEREAS, said Agreement includes a provision for building inspectors as may be required, and

WHEREAS, by Resolution No. 2006-240, the original agreement was amended on April 25, 2006, to accommodate the needs of the Parks, Recreation and Neighborhoods Department, and

WHEREAS, the original agreement with the Community and Economic Development Department in the amount of $75,000 had been reached, and

WHEREAS, on December 12, 2006, by Resolution No. 2006-765, the Community & Economic Development Department entered into a new agreement with Precision Inspection Company, Inc in an amount not to exceed $150,000 in order to satisfy on-going needs, and to avoid convoluting the Amendment to the original agreement for services provided to the Parks, Recreation and Neighborhoods Department, and

WHEREAS, the remaining balance on that agreement is $50,589, and

WHEREAS, in order to satisfy the on-going needs, the Community and Economic Development Department desires to extend Consultant's contract for future services for an additional amount not to exceed $50,000, for a total contract amount not to exceed $200,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to the Standard Agreement for Consultant Services with Precision Inspection Company, Inc. for additional plan check services and in conducting building permit inspections in an amount not to exceed $50,000, for a total contract amount not to exceed $200,000.

BE IT FURTHER RESOLVED by the Council that the City Manager, or his designee, is hereby authorized to execute said Amendment to the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-514

Print

A RESOLUTION AUTHORIZING THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT TO SOLICIT REQUEST FOR PROPOSALS FOR PROFESSIONAL ASSISTANCE FOR PLAN CHECK SERVICES FOR A THREE-YEAR PROFESSIONAL SERVICES AGREEMENT, WITH OPTIONS FOR TWO (2), ONE-YEAR RENEWALS, NOT TO EXCEED $100,000 EACH YEAR.

WHEREAS, the volume of plan checks and building inspections has continued to grow over the last several years, and

WHEREAS, staffing shortages exist in the plan review area, and

WHEREAS, the target time set for plan review is 10 working days for tenant improvement plans and residential plans and 15 working days for commercial plans, and

WHEREAS, the City had sent commercial plans to Harris & Associates for plan review, and

WHEREAS, the increase in the plan review workload could not be absorbed by Harris & Associates and the target time for plan reviews could not be met, and

WHEREAS, by Resolution No. 2006-016, the City entered into an Agreement with Precision Inspection Company, Inc. on January 10, 2006 in the amount of $75,000, to assist in conducting plan check services and building permit inspections, and

WHEREAS, said Agreement includes a provision for building inspectors as may be required, and

WHEREAS, by Resolution No. 2006-240, the original agreement was amended on April 25, 2006, to accommodate the needs of the Parks, Recreation and Neighborhoods Department, and

WHEREAS, the original agreement with the Community and Economic Development Department in the amount of $75,000 has been reached, and

WHEREAS, by Resolution No. 2006-765, a new agreement with Precision Inspection, Inc. was entered into on December 12, 2006, in an amount not to exceed $150,000 in order to satisfy on-going needs, and

WHEREAS, the volume of plan review workload could not be absorbed by Precision Inspection, Inc. and the target time for plan reviews could not be met, and

WHEREAS, professional services are essential for the Building & Development Services Division to meet the performance measures established for tenant improvement plan checks, commercial plan checks and residential plan checks,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Community & Economic Development Department to solicit proposals for professional assistance for plan check services for a period of three years, not to exceed $100,000 each year.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes an option for two (2), one-year renewals, not to exceed $100,000 each year.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:
By K. Teresa, Asst.
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-515

A RESOLUTION APPROVING A CFF RIGHT OF WAY REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO MABLE, LLC, A LIMITED LIABILITY COMPANY, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF $433,862.00 FOR RIGHT OF WAY FOR THE FUTURE PELANDALE/CLARATINA EXPRESSWAY AND RIGHT OF WAY LOCATED ON OAKDALE ROAD NORTH OF MABEL AVENUE, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, FINDING THAT THE AGREEMENT IS WITHIN THE SCOPE OF THE GENERAL PLAN MASTER EIR (SCH NO. 1999082041) AND THE NORTH BEYER PARK SPECIFIC PLAN MND (SCH NO. 9610253), AND RESCINDING RESOLUTION NO. 2007-319 .

WHEREAS, the City of Modesto's General Plan calls for Pelandale Avenue/Claratina Road to be constructed as a Class A expressway, and

WHEREAS, the future Claratina Road will be developed as an expressway and additional right of way is necessary for the future realignment of Claratina Road, and

WHEREAS, Modesto Mable, LLC, a Limited Liability Company, ("Developer") has a legal interest in a certain tract of land located at the northwest corner of Oakdale Road and Mable Avenue in North Beyer Park Specific Plan area of the City of Modesto, commonly known as the Rose Villas Subdivision ("Subdivision"), and

WHEREAS, as a condition of approval of the Subdivision, the Developer is required to dedicate 73,979 square feet of right of way for the future Pelandale/Claratina Expressway and 4,313 square feet of right of way for the widening of Oakdale Road north of Mable Avenue (collectively "the Dedication"), and

WHEREAS, on June 5, 2007 Council approved Resolution 2007- 319 for a CFF Right of Reimbursement Agreement ("Original Agreement") between the City of Modesto and Modesto Mable, LLC, ("Developer'), and

WHEREAS, the final map for the subdivision was not recorded within ninety (90) days per the terms of the Original Agreement and the Original Agreement was terminated, and

WHEREAS, the City and the Developer are proposing to enter into a new CFF Right of Way Reimbursement Agreement ("Agreement") between the City of Modesto and Developer to provide for reimbursement for (a portion of) the ROW to be dedicated, and

WHEREAS, the Dedication will be made through the recordation of the Final Map or recordation of a Grant Deed, and

WHEREAS, that portion of the Dedication which will be reimbursable will be reimbursed through the City's Capital Facilities Fees ("CFF") program, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $433,862, which will be allocated from the Streets CFF fund, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2006-66, which concludes that the dedication of the right of way for which the Developer will be reimbursed under the proposed Agreement, is within the scope of the General Plan Master EIR (SCH No. 1999082041) and the North Beyer Park Specific Plan MND (SCH No. 96102053, and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required,

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

1. The proposed CFF Right of Way Reimbursement Agreement between the City of Modesto and Modesto Mable, LLC ("Project") is consistent

with the North Beyer Specific Plan and the Modesto Urban Area General Plan.

2. The reimbursement for the proposed right of way is included in the 2003 CFF program.
3. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the General Plan Master EIR and the North Beyer Park Specific Plan MND ("Program EIR") and no new environmental document or findings are required by CEQA.
4. There are no substantial changes proposed in the Project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR, are required.
5. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR, are required.
6. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:
    a. one or more significant effects which is not discussed in the Program EIR; or,

b. significant effects which were previously examined will be substantially more severe than previously shown; or,

c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,

d. mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

7. The Written Checklist, Environmental Assessment EA/C&ED 2006-66, provides the substantial evidence to support findings 3-7, above.

BE IT FURTHER RESOLVED that the CFF Right of Way Reimbursement Agreement between the City of Modesto and Modesto Mable, LLC is hereby approved.

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

BE IT FURTHER RESOLVED that Resolution 2007-319 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: R. Flores-Aoki
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-516

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF MAINTENANCE AND CALIBRATION SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL (WQC) DIVISION TO TELSTAR INSTRUMENTS, INC., OF CONCORD, CA., FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $50,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, the Public Works Department-Water Quality Control (WQC) Division at 7007 Jennings Road, has requested the furnishing of maintenance and calibration services, and

WHEREAS, on December 5, 2006, Council approved Resolution No. 2006-757 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of maintenance and calibration services, for the WQC Division, and

WHEREAS, on May 1, 2007, the Purchasing Division issued Request for Bid No. 0607-07 for the furnishing of maintenance and calibration services to nine (9) prospective bidders, none of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on May 10, 2007, a bidders conference was held, and

WHEREAS, two (2) companies were in attendance, and

WHEREAS, on June 5, 2007, RFB's were formally opened in the City Clerk's office, and

WHEREAS, of the nine (9) prospective bidders, one (1) company chose to respond, and

WHEREAS, based on receiving a responsive and responsible bid, City staff recommends the award of bid and contract for maintenance and calibration services to

Telstar Instruments, Inc., Concord, CA., for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City, and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, this award of bid and contract for the furnishing of maintenance and calibration services conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account number 6210-480-5214-0235 (Sewer Operations Fund) for furnishing of maintenance and calibration services for FY 07/08,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the furnishing of maintenance and calibration services for the Public Works Department, Water Quality Control (WQC) Division to Telstar Instruments, Inc., Concord, CA., for a two (2) year agreement with three (3) one-year extension options, at the sole discretion of the City, for a total estimated annual cost of $50,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcalá Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-517

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF LABORATORY FURNITURE FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION TO ISEC, INC., DIXON, CA FOR A TOTAL ESTIMATED COST OF $66,124, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, on September 26, 2006, Council approved Resolution No. 2006-615 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of laboratory furniture for the Water Quality Control Division, and

WHEREAS, on March 6, 2007, the Purchasing Division issued Request for Bid No. 0607-26 for the purchase of laboratory furniture to four (4) prospective bidders, none of which were local companies, posted the bid on the City's web site, and formally advertised as required by law , and

WHEREAS, on April 10, 2007, RFB's were formally opened in the City Clerks office. Of the four (4) prospective bidders, one company chose to respond, and

WHEREAS, based on receiving a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of laboratory furniture to ISEC Inc., Dixon, CA, for a total estimated cost of $66,124, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of laboratory furniture conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of laboratory furniture, to ISEC Inc., Dixon, CA., for a total estimated cost of $66,124.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: R. Steven Asatto
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-518

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A 2000 GALLON WATER TRUCK TO S & C FORD, INC., SAN FRANCISCO, CA, FOR A TOTAL ESTIMATED COST OF $74,626.

WHEREAS, the compost facility owned a 1991 Caterpillar D300B water truck, and due to mechanical and safety issues the water truck was not being operated. In accordance with Air Board regulations, the 1991 Caterpillar D300B water truck would not meet Air Board compliance, and

WHEREAS, Air Pollution Control permits for the City's Compost Site require that a water truck be on site at all times for dust control during compost operations. If a truck is not present to water down the site, the Air Board staff will issue the City a Notice of Violation, and

WHEREAS, in November 2006, the Purchasing Division issued a sealed bid for the sale of the 1991 Caterpillar D300B water truck, and

WHEREAS, in December 2006, during supplemental budget review, the allocation of $65,000 was approved by the City Council for the purchase of a new water truck, and

WHEREAS, in January 2007, the water truck sold for $26,000 at The Auction Yard. The net revenue of $24,245 was placed in the Compost Fund Reserve account for use in the purchase of a new water truck, and

WHEREAS, on April 24, 2007, the City Council approved Resolution No. 2007-226 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of a 2000 Gallon Water Truck for the Parks, Recreation and Neighborhoods Department, Solid Waste Division Compost Facility, and

WHEREAS, on June 14, 2007, the Purchasing Division issued RFB No. 0607-57 for the purchase of a 2000 Gallon Water truck to twenty-one (21) prospective bidders, one of which is a local company, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on July 17, 2007, RFB's were formally opened in the City Clerk's office. Of the twenty-one (21) prospective bidders, four (4) companies chose to respond. All bidders provided responsive and responsible bids, and

WHEREAS, based on being deemed the lowest responsive and responsible bidder, City staff recommends the award of bid and contract for the purchase of a 2000 Gallon Water Truck to S & C Ford, Inc., San Francisco, CA, for the total estimated cost of $74,626, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of a 2000 Gallon Water Truck for the Parks, Recreation and Neighborhoods Department, Solid Waste Division Compost Facility, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of a 2000 Gallon Water Truck to S & C Ford, Inc., San Francisco, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a Purchase Order for a total estimated cost of $74,626.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: R. Teresa Post
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-519

A RESOLUTION AMENDING THE 2007-2008 OPERATING BUDGET TO TRANSFER $74,626 FROM THE COMPOST FUND RESERVE ACCOUNT NUMBER 6290-800-8000-8003 TO THE FLEET REPLACEMENT FUND WHERE IT WILL BE APPROPRIATED TO 7210-480-5814-5814 FOR THE PURCHASE OF A 2000 GALLON WATER TRUCK.

WHEREAS, staff recommends the City Council adopt a resolution amending the 2007-2008 operating budget to transfer $74,626 from the Compost Fund Reserve account number 6290-800-8000-8003 to the Fleet Replacement Fund where it will be appropriated to 7210-480-5814-5814 for the purchase of a 2000 Gallon Water Truck,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts a resolution amending the 2007-2008 operating budget to transfer $74,626 from the Compost Fund Reserve account number 6290-800-8000-8003 to the Fleet Replacement Fund reserve where it will be appropriated to 7210-480-5814-5814 for the purchase of a 2000 Gallon Water Truck.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-520

A RESOLUTION APPROVING A REQUEST TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS) FOR AN EXTENSION OF 18 MONTHS TO COMPLETE RENOVATIONS AND PLACE INTO USE THE FORMER SOCIAL SECURITY BUILDING AT 1230 12TH STREET, AUTHORIZING STAFF TO ISSUE A REQUEST FOR QUALIFICATIONS (RFQ) FOR THE MASTER LEASE OF THE 1230 12TH STREET BUILDING WITH THE CONDITION THAT IF THE CITY DOES NOT RECEIVE A REQUEST THE CITY COULD END THE EXTENSION AND RETURN THE PROPERTY TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND AUTHORIZING STAFF TO RE-ISSUE A REQUEST FOR BID (RFB) TO COMPLETE THE RENOVATION OF THE 1230 12TH STREET BUILDING WHICH WOULD NOT BE EXECUTED UNLESS A QUALIFIED CANDIDATE HAS ENTERED INTO A MASTER LEASE AGREEMENT WITH THE CITY.

WHEREAS, on August 29, 2003, the City of Modesto received a "Notice of Determination," which indicated that the Social Security Administration (SSA) Building, located at 1230 12th Street (the "property"), (GSA No. 9-G-CA-1610), had been determined to be surplus government property, and

WHEREAS, the notice, issued by the U.S. General Services Administration (GSA) of the Federal Government, reported that the property was also determined to be suitable by the Department of Housing and Urban Development (HUD), and the first priority for use is for homeless programs or services for the homeless, and

WHEREAS, on October 14, 2003, by Resolution No. 2003-548, the City Council authorized staff to submit a "Letter of Interest" to the Department of Health and Human Services (DHHS) in order to receive an application for the surplus property located on 1230 12th Street, previously used by the Social Security Administration, and approved staff recommendation for future use of the former Social Security Administration building, and

WHEREAS, on January 6, 2004, by Resolution No. 2004-019 the City Council approved the submission of an application for the property and authorized the City Manager to execute the agreement and subsequent documents, and

WHEREAS, on September 13, 2004, the City of Modesto received a letter from the DHHS, Division of Property Management with an original Quitclaim Deed. The City indicated its acceptance by signing this document, and

WHEREAS, in accepting the property, the City of Modesto committed to preparing the site for occupancy within 36 months (September 13, 2007) if major renovations are done; or within 12 months (September 13, 2005) if minor repairs need to be done, and

WHEREAS, on January 28, 2005, as the City was preparing to initiate the rehabilitation work to be done on the property, City staff discovered that the property had extensive damage due to vandalism, and

WHEREAS, staff has been working on the rehabilitation of the building as well as working with agencies that provide homeless services and are interested in renting space in the property, and

WHEREAS, staff was working with an anchor agency that was interested in master leasing the property; this agency requested additional remodeling of the property to be able to provide confidential services to their customers, and

WHEREAS, taking into consideration the budget allocated by the City for the property and the additional remodeling needed by this agency, staff requested two architectural estimates, and

WHEREAS, architectural estimate No. 1 came back at $247,738.69, and

WHEREAS, architectural estimate No. 2 came back at $1,116,643.22, and

WHEREAS after reviewing the estimates, the anchor agency indicated that it did not have enough funds to cover the cost of the additional remodeling, and opted not to lease the property, and

WHEREAS, the Parks, Recreation and Neighborhoods Department staff was working with Public Works staff to prepare a Scope of Services to issue a Request for Bid (RFB) for the remodeling of the property, and

WHEREAS, on June 5, 2007, a Blind Bid opening was held at the City Clerk's office, and no bids were received, and

WHEREAS, staff has not yet re-issued a new bid, and

WHEREAS, based on the loss of the anchor agency, staff brought this issue to the Stanislaus County Support Services Collaborative which is the entity that oversees homeless issues within Stanislaus County, and

WHEREAS, after this item was presented to the Collaborative, some agencies expressed their interest in leasing the property, and

WHEREAS, on June 29, 2007, the City received a letter from United Way indicating their interest in pursuing a Memorandum of Understanding with the City for the future use of the property, and

WHEREAS, on August 16, 2007, the City received a letter from the District Attorney's office on behalf of the Stanislaus County Family Justice Center Steering Committee indicating their interest in procuring operations and office space at the property, and

WHEREAS, in order to be able to continue with this project the City must request a time extension from the DHHS to complete the renovation of the property, and

WHEREAS, in view of the fact that staff has received new requests from interested parties to lease the property, and the deadline provided by DHHS to complete the renovation and to place the property into use is quickly approaching, staff is recommending that a time extension of 18 months be requested to complete the rehabilitation of the property, and

WHEREAS, staff is recommending releasing a Request for Qualifications (RFQ) to determine the agency that best qualifies to manage the master lease of the property, and

WHEREAS, staff is also recommending that in the event the extension is granted a Request for Bid for the rehabilitation of the property should be re-issued, and

WHEREAS The Citizens Housing and Community Development Committee (CH&CDC) met on August 24, 2007, and recommended: extending the time period for the extension from staff's original recommendation of 12 months to 18 months; that upon approval of the request, an RFQ for the master lease of the property should be issued, with the condition that if the City does not receive a request the City could end the extension and return the property to the Department of Health and Human Services; and that the RFB to complete the renovation of the property be re-issued, with the provision that it not be executed unless a qualified candidate has entered into a master lease agreement with the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request to the Department of Health and Human Services (DHHS) for an extension of 18 months to complete renovations and place into use the property.

BE IT FURTHER RESOLVED that staff is hereby authorized to issue a Request for Qualifications (RFQ) for the Master Lease of the property with the condition that if the City does not receive a request the City could end the extension and return the property to the Department of Health and Human Services.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-issue a Request for Bid (RFB) to complete the renovation of the property, with the provision that it not be executed unless a qualified candidate has entered into a master lease agreement with the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Hawn (Acting)
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-521

A RESOLUTION APPROVING AN AGREEMENT WITH THE COUNTY OF STANISLAUS FOR THE PROVISION OF ONE FULL-TIME MODESTO POLICE SERGEANT POSITION TO SERVE AS TRAINING CENTER COORDINATOR AT THE STANISLAUS COUNTY REGIONAL TRAINING CENTER, IN THE AMOUNT OF $126,297, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the County of Stanislaus has requested a Modesto Police Sergeant to fill its Academy Coordinator position for the regular basic course, and

WHEREAS, the term of the agreement is one year, commencing on July 1, 2007 until June 30, 2008, and

WHEREAS, the County of Stanislaus will reimburse the City of Modesto the total cost—salary and benefits, cellular telephone and computer costs—of one Modesto Police Sergeant, and

WHEREAS, this action is fiscally neutral,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with the County of Stanislaus for the provision of one full-time Police Sergeant position to serve as the Training Center Coordinator at the Stanislaus County Regional Training Center, in the amount of $126,297.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: R. Flores, Asst.
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-522

A RESOLUTION ACCEPTING A DONATION OF UP TO $5,000 FROM RALEY'S/MILK-BONE FOR THE PURCHASE OF A NEW POLICE CANINE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, Raley's/Milk-Bone retail customers have partnered to donation police dogs to law enforcement agencies across the country since 2002, and

WHEREAS, Raley's/Milk-Bone would like to donate up to $5,000 to the Modesto Police Department for the purchase of a new canine for the Canine Unit, and

WHEREAS, the donation will be made on September 19, 2007 at the Raley's located at 3020 Floyd Ave. Suite #139, and

WHEREAS, the Modesto Police Department will do a police dog demonstration at the event, and

WHEREAS, thre is no fiscal impact to the City of Modesto, and

WHEREAS, the money will be deposited in the K-9 Trust Account, fund 8600, and balance sheet account 3403,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a donation from Raley's/Milk-bone in an amount up to $5,000.

BE IT FURTHER RESOLVED that said amount will be deposited in the K9 Trust Account, Fund 8600, Balance Sheet Account 3403:

Balance Sheet:

To:	8600-3403	$5,000	K9 Trust

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-523

A RESOLUTION ACCEPTING THE WORK BY RICHARD A. HEAPS ELECTRICAL CONTRACTOR, INC., FOR THE PROJECT TITLED "TRAFFIC SIGNAL MODIFICATIONS: LALOMA AVENUE AT SANTA ANA AVENUE AND NEEDHAM AVENUE AT 12TH STREET/VIRGINIA AVENUE " AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $294,713.30

WHEREAS, a report has been filed by the Public Works Director that the project titled "Traffic Signal Modifications at LaLoma and Santa Ana Avenue and Needham Avenue at 12th Street and Virginia Avenue" has been completed by Richard A. Heaps Electrical Contractor, Inc., in accordance with the contract agreement dated August 8, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Traffic Signal Modifications at LaLoma and Santa Ana Avenue and Needham Avenue at 12th Street and Virginia Avenue" is hereby accepted as complete from said contractor, Richard A. Heaps Electrical Contractor, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $294,713.30, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By R. Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-524

A RESOLUTION APPROVING AN AMENDMENT TO AN AGREEMENT WITH BROWN & CALDWELL FOR A REVISED SCOPE OF WORK RELATED TO CONSTRUCTION SUPPORT SERVICES FOR THE DISSOLVED AIR FLOTATION FACILITY PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $192,797, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the City of Modesto operates and maintains a secondary treatment system at 7007 Jennings Road, and

WHEREAS, during the late fall, winter, and early spring months discharge to the San Joaquin River is allowed if the treated wastewater is of adequate quality, and

WHEREAS, the Dissolved Air Flotation (DAF) clarifier is the technology chosen to resolve effluent disposal limitations, and

WHEREAS, on January 4, 2005, by Resolution No. 2005-018, the City Council approved an Agreement in the amount of $548,922 with Brown & Caldwell to complete design services and other tasks for the Dissolved Air Flotation Facility project, and

WHEREAS, the Agreement for design services with Brown & Caldwell included: Data Gathering, Site Work, Intake System, DAF Design, Chemical Storage and Feed System, Sludge Storage, Discharge Piping, Electrical Supply, Controls, SCADA, Bidding Assistance, Construction Support, Start-up and Training, and Project Close-out, and

WHEREAS, on January 2, 2007, by Resolution No. 2007-037, Council awarded a $6,010,403 construction contract to Kaweah Construction Company, and

WHEREAS, the largest bid item was to furnish and install the pre-manufactured Dissolved Air Flotation units at the Secondary Wastewater Treatment facility, and

WHEREAS, the design was made around the dimensions of a dissolved air flotation manufacturer, FRC, who was specified in the plans, and

WHEREAS, to make the bid competitive, other manufacturers could be submitted as equal to the FRC manufactured unit, and

WHEREAS, the low bidding contractor, Kaweah Construction Company, submitted a Dissolved Air Flotation Facility manufactured by Nijhuis, which would produce a cost savings of approximately $550,000 to the City, and

WHEREAS, Nijhuis is a larger structure with a need to reroute plumbing and electric facilities, peripheral equipment, access, and controls, already designed by Brown & Caldwell, and

WHEREAS, Brown & Caldwell had a significant effort to integrate the very different requirements of the Nijhuis equipment into the design, and spent numerous hours reviewing submittals, answering requests for information, and re-designing the construction drawings to adapt to the Nijhuis equipment, and

WHEREAS, in July of 2007, Brown & Caldwell submitted a revised fee and scope for construction management services for $192,797, and

WHEREAS, due to the size and complexity of this project, City staff recommends that Brown & Caldwell continue to provide services to complete the construction management services for the Dissolved Air Flotation Facility project, and

WHEREAS, an Amendment to the current Consultant Agreement with Brown & Caldwell for a revised scope of work related to construction management services in the not-to-exceed amount of $192,797 for the Dissolved Air Flotation Facility project is necessary in order to complete the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Brown & Caldwell for a revised scope of work related to construction management services for the Dissolved Air Flotation Facility project, in the not-to-exceed amount of $192,797.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-525

Print

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH HARRIS & ASSOCIATES FOR A REVISED SCOPE OF WORK RELATED TO ON-CALL PROJECT MANAGEMENT SUPPORT SERVICES FOR VARIOUS CAPITAL IMPROVEMENT PROJECTS AND KAISER ADMINISTRATION SERVICES IN THE NOT-TO-EXCEED AMOUNT OF $249,600, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT. THIS AMENDMENT BRINGS THE AGREEMENT TOTAL TO $294,600.

WHEREAS, various Capital Improvement Projects (CIP) in the City's Capital Improvement Program and Kaiser Administration services require project management, and

WHEREAS, Harris & Associates is well qualified to perform On-Call Project Management Support Services and has performed such services for various public agencies several times in the past, and

WHEREAS, the Public Works Department has insufficient staffing at this time to perform such services, and

WHEREAS, on June 19, 2007, the City Manager approved an Agreement in the amount of $45,000 with Harris & Associates to provide On-Call Project Management Support Services for the City of Modesto's various CIP Projects and Kaiser Administration Services, and

WHEREAS, in August of 2007, Harris & Associates submitted a revised fee and scope for On-Call Project Management Support Services for $249,600, and

WHEREAS, current staffing will not provide for timely in-house project management, and

WHEREAS, the consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order, and

WHEREAS, the consultant will perform no services until CIS management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to the consultant prior to commencement of services, and

WHEREAS, to fund consultant work for specific task orders, funds will be budgeted and encumbered against each project specific CIP account, or multi-year operating organization, as the project is assigned, and

WHERES, consultant invoices are to be paid from each project specific CIP, or multi-year operating organization on a task order basis received and verified by CIS staff, and

WHEREAS, an Amendment to the current Consultant Agreement with Harris & Associates for a revised scope of work related to On-Call Project Management Services in the not-to-exceed amount of $249,600 for various Capital Improvement Projects and Kaiser Administration services is necessary in order to complete the following projects: 1) Pelandale 6-Lanes-Dale Rd to McHenry Ave, 2) Pelandale at Sisk & SR 99 Improvements, 3) Dale Rd/Kiernan Intersection Improvements, and 4) Kaiser Administration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Harris & Associates for a revised scope of work related to On-Call Project Management Services for various Capital Improvement Projects and Kaiser Administration services, in the not-to-exceed amount of $249,600.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-526

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF A "SOLE BRAND" DONALDSON DIESEL PARTICULATE MATTER FILTERS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, FOR AN ESTIMATED ANNUAL COST OF $171,000.

WHEREAS, in 2000 the California Air Resources Board (CARB) approved the Diesel Risk Reduction Plan (Plan), which focused on reducing diesel particulate matter emission, and

WHEREAS, this Plan targets 1960 to 2006 model year on-road diesel powered vehicles, and

WHEREAS, beginning with 2007, the implementation of this Plan will affect only municipalities and utilities, and

WHEREAS, in 2007, 20% of the 71 affected vehicles in the City of Modesto's fleet must be compliant with these regulations, with the percentage increasing to 60% compliance in 2009 and entire compliance by 2010, and

WHEREAS, Council authorization of this purchase allows compliance with the CARB regulations, and

WHEREAS, the installation of diesel particulate filters will contribute toward improved air quality in the Greater Modesto region, and

WHEREAS, the per-unit cost of these filters is relatively high as are maintenance and replacement parts, and

WHEREAS, using the sole brand Donaldson filters will allow the City to economize by maintaining fewer expensive parts and supplies on hand, by having filters

cleaned locally instead of shipping units long distance to be cleaned, and by training staff to install and maintain a single technology across the fleet, and

WHEREAS, funds are budgeted in Fleet Services – Particulate Matter Filters (7210-480-5812-0365) in the amount of $171,000 to fund the purchase of these diesel particulate matter filters,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to solicit formal request for bids for the purchase of a "sole brand" Donaldson Diesel Particulate Matter Filters for the Public Works Department, Fleet Services Division, for an estimated annual cost of 171,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: R. Susana Alcala Wood

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-527

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PHASE 1.2, ACCEPTING THE BID AND APPROVING A $2,554,818.76 CONTRACT WITH TEICHERT CONSTRUCTION FOR THE PROJECT TITLED, "TUOLUMNE RIVER REGIONAL PARK GATEWAY PHASE 1.2," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Tuolumne River Regional Park Gateway Phase 1.2" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Tuolumne River Regional Park Gateway Phase 1.2" were opened at 11:00 a.m. on August 7, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $2,554,818.76, received from Teichert Construction, be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Teichert Construction in the amount $2,554,818.76, and hereby awards Teichert Construction the contract titled "Tuolumne River Regional Park Gateway Phase 1.2."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-528

A RESOLUTION MAKING THE MANDATORY LEGAL FINDINGS PURSUANT TO HEALTH & SAFETY CODE SECTION 33445 AND AUTHORIZING THE MODESTO REDEVELOPMENT AGENCY EXECUTIVE DIRECTOR TO NEGOTIATE REIMBURSEMENT AGREEMENTS WITH THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS TO DISTRIBUTE AGENCY TAX INCREMENT FUNDS IN THE AMOUNT OF $952,427.54 FROM CAPITAL IMPROVEMENT PROJECT ACCOUNT NO. Q260 AND ACCOUNT NO. K732 TO REIMBURSE SAID AGENCIES FOR THE COST OF VARIOUS PUBLIC IMPROVEMENTS ON STREETS ADJACENT TO THE GALLO CENTER FOR THE ARTS AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE SAID REIMBURSEMENT AGREEMENTS

WHEREAS, the Redevelopment Agency of the City of Modesto (the "Agency") is carrying out the Redevelopment Plan (the "Redevelopment Plan") for the Modesto Redevelopment Project, and

WHEREAS, pursuant to the requirements of the Community Redevelopment Law, (Health and Safety Code section 33000 *et seq.*) (the "Redevelopment Law") the Agency annually receives tax increment revenue for the purpose of eliminating blighted conditions within the Agency Project Area, and

WHEREAS, on March 25, 2003, the City Council of the City of Modesto (the "Council") reviewed four alternative designs for street and streetscape public improvements (the "Public Improvements") in conjunction with the construction of the proposed Gallo Center for the Arts (the "Center") which Center is a $63 million project being constructed on the block between 10th and 11th streets and H and I Streets in downtown Modesto, and

WHEREAS, the Council approved funding for said Public Improvements which are generally shown on attached **Option 1A**, which is made a part hereof by this reference, at a total estimated cost of $1,030,000 including the utility, streetscape and street improvements along I Street and 11th Street and extending the street improvements (curb, sidewalk, lights and trees) around all four sides of the block, and

WHEREAS, the Council recommended that an optional source of funding for said Public Improvements might be provided from the Agency's tax increment funding and, as such, agreed to loan the Agency a total amount of $602,000 (the "Loan Funds") for a portion of the proposed Public Improvement construction, pending future approval by the Agency by separate action, and

WHEREAS, on March 25, 2003, the Agency approved Resolution No. 6-2003 accepting said Loan Funds from the Council for said Public Improvements with the following conditions:

Before approving the use of said Loan Funds or other tax increment funds for said Public Improvements:

1. The Agency is required to complete negotiations with County of Stanislaus (the "County") and the City of Modesto (the "City") to produce agreements setting forth the financial requirements for the use of said Loan Funds
2. The Agency and the Council both must make the following mandatory legal findings pursuant to the Redevelopment Law (Health & Safety Code §33445(a)):

A. The proposed Public Improvements are a benefit to the Redevelopment Project Area or to the neighborhood surrounding the Gallo Center for the Arts

B. No other reasonable means of financing said Public Improvements is available to the community.

C. The reimbursement of funds for the cost of said Public Improvements will assist in the elimination of one or more blighting conditions inside the Agency Project Area and is consistent with the Implementation Plan adopted on December 14, 2005, and

WHEREAS, the Center construction has continued towards completion, including the funding of construction of said Public Improvements by both the City and the County, with the goal of opening on September 27, 2007, which construction funding was provided as follows:

A. City of Modesto - $212,000 (Est)

B. County of Stanislaus - $740,427.54

,and

WHEREAS, Agency tax increment financing can only be utilized for said Public Improvements if the said legal findings are made by both the Agency and the Council, and

WHEREAS, at their meetings on August 1, 2007 and August 8, 2007, the Citizens Redevelopment Advisory Commission considered the request for tax increment funding to reimburse the City and the County for construction costs in the total amount of $952,427.54 for said Public Improvements as set forth in the attached **"Streetscape Costs",** which is made a part hereof by this reference, and recommended the approval of said tax increment funding, and

WHEREAS, the Commission recommended that the Agency and the Council make the following legal findings pursuant to the Redevelopment Law, Health and Safety Code Section 33445:

1. The said Public Improvements are a benefit to the Redevelopment Project Area and to the neighborhood surrounding the Gallo Center for the Arts

2. No other reasonable means of financing said Streetscape Costs are available to the community
3. The funding of said Streetscape Costs will assist in the elimination of one or more blighting conditions inside the Redevelopment Project Area and is consistent with the Five-Year Implementation Plan adopted by the Agency pursuant to Health and Safety Code Section 33490.

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

Section 1. The Council has reviewed the financial documentation for the Center and has determined that the following legal findings shall be made:

1. The said Public Improvements are a benefit to the Redevelopment Project Area and to the neighborhood surrounding the Gallo Center for the Arts
2. No other reasonable means of financing said Streetscape Costs are available to the community
3. The funding of said Streetscape Costs will assist in the elimination of one or more blighting conditions inside the Redevelopment Project Area and is consistent with the Five-Year Implementation Plan adopted by the Agency pursuant to Health and Safety Code Section 33490.

Section 2. The Council authorizes the Agency's Executive Director to negotiate reimbursement agreements with the City of Modesto and the County of Stanislaus for the distribution of Agency tax increment funds from Capital Improvement Project Account No. Q260 and Account No. K732 to reimburse the City and the County for said Streetscape Costs (the "Agency Assistance") as follows:

A. City of Modesto - $212,000 (Est)
B. County of Stanislaus - $740,427.54

Section 3. The Agency Assistance as defined in this resolution is necessary to effectuate the purposes of the Redevelopment Plan

Section 4. The City Manager/Executive Director, or his/her designee, is hereby authorized to take such further actions and execute such documents as are necessary to carry out the conditions of this Resolution on behalf of the Council and the Agency. The City Manager/Executive Director, or his/her designee, is further authorized to cooperate with the City and the County in implementing the terms and conditions between the Agency and City and the County as provided in this Resolution.

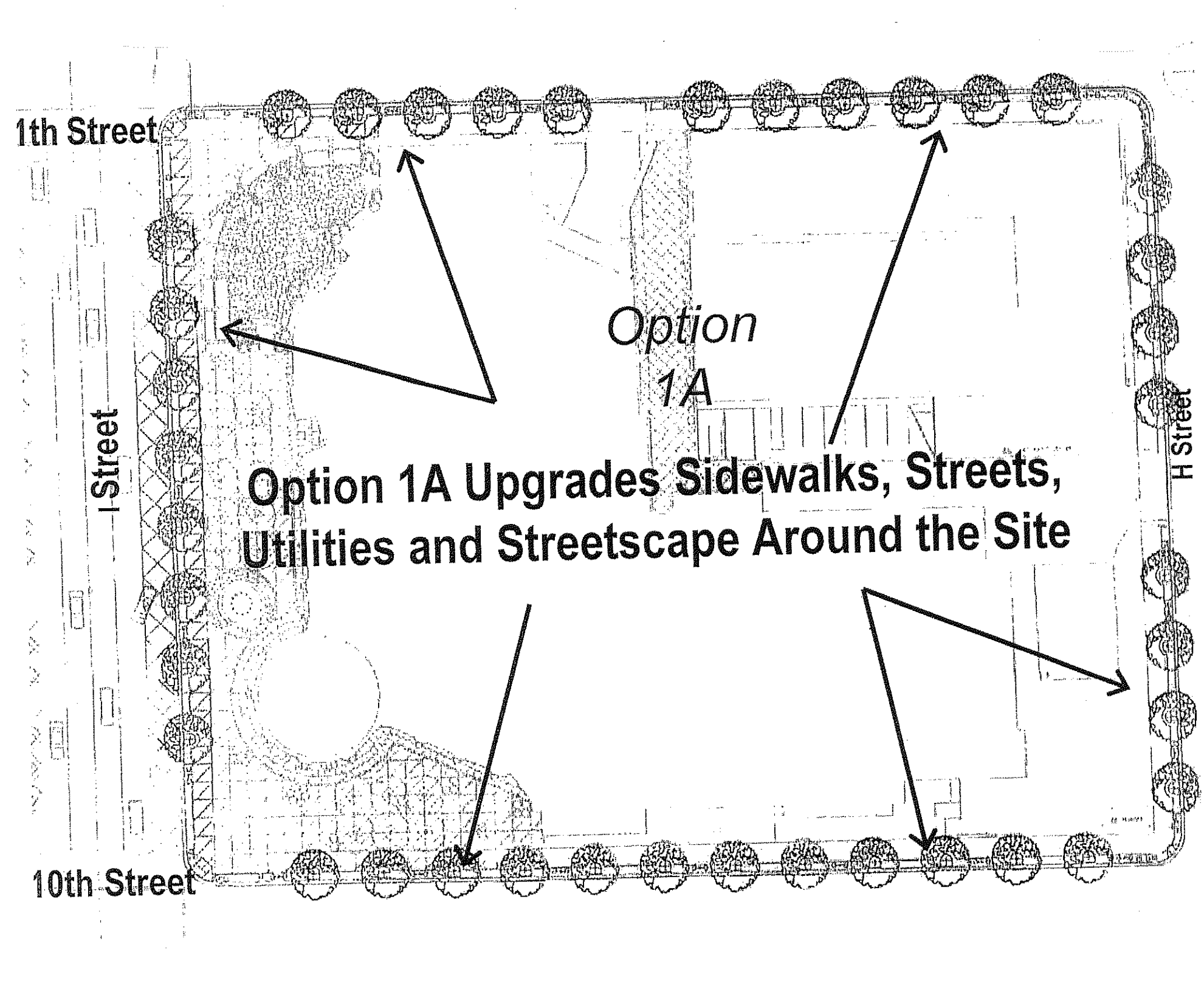
The foregoing resolution was introduced at a special meeting of the Modesto City Council held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney


1th Street
Option
1A
I Street
H Street
Option 1A Upgrades Sidewalks, Streets,
Utilities and Streetscape Around the Site
10th Street

City of Modesto Redevelopment Agency - Streetscape Project
Estimated Cost Calculations

Task Description:	Original Estimate	ENR 15.9% Inflator	Estimate with 4-year Inflation
Remove and Replace Curb and Gutter	$21,000.00	$3,339.00	$24,339.00
Sidewalk - Lithocrete	$58,240.00	$9,260.16	$67,500.16
Driveway Approaches	$4,200.00	$667.80	$4,867.80
I Street Pavers Plus Concrete Border	$25,200.00	$4,006.80	$29,206.80
I Street Bollards	$9,000.00	$1,431.00	$10,431.00
Drain Inlets	$6,000.00	$954.00	$6,954.00
Traffic Control	$15,000.00	n/a	$15,000.00
	$138,640.00	$19,658.76	$158,298.76

NOTE: For those items that were not supported by detailed billings from the project's contractors, the estimated cost for each task was used, based on the 2003 estimate of cost that was provided by the City of Modesto. To reflect the passage of time and the inflation that has occurred in the construction material market, the change in the Engineering News Record San Francisco CCI index was measured from February 2003 to June 11, 2007. This change resulted in a 15.9% increase in costs during this period. As shown in the table above, the increase has been applied to those estimates that have been selected for use in determining the amount of the funding request for the Gallo Arts Center.

Gallo Center for the Arts Streetscape Project

Costs Paid By Stanislaus County

		Cost Basis
Remove and Replace Curb and Gutter	$24,339.00	City Estimate
Sidewalk - Lithocrete	67,500.00	City Estimate
Sidewalks - Exposed Aggregate/3 ft. Broom and ADA Ramps	83,762.00	Actual Cost
Driveway Approaches	4,868.00	City Estimate
I Street Pavers Plus Concrete Border	29,207.00	City Estimate
I Street Bollards	10,431.00	City Estimate
Drain Inlets	6,954.00	City Estimate
Street Lights - entire block	212,796.82	Actual Cost
Electrical Recepticals	94,889.00	Actual Cost
Tree Grates	32,853.00	Actual Cost
Repair I Street Soft Subgrade	24,308.00	Actual Cost
Traffic Control	15,000.00	City Estimate
Sub-total:	$606,907.82	
Engineering/Design/Administration @ 12%	72,828.94	
Construction Administration @ 10%	60,690.78	
Total Costs Paid By Stanislaus County:	$740,427.54	

Costs Paid By City of Modesto

Potted Trees	$12,000.00	
Pavement Project Costs:		
11th Street	$94,000.00	
10th Street	88,000.00	
Related Electrical and Traffic Light Work	18,000.00	
	$200,000.00	
Total Costs to be paid by City:	$212,000.00	

Total Costs Included in Funding Request: **$952,427.54**

For information on City estimates, refer to the attached schedule

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-529

A RESOLUTION UPDATING A FINE SCHEDULE FOR VIOLATIONS OF INDUSTRIAL WASTEWATER DISCHARGE PERMITS EFFECTIVE OCTOBER 1, 2007, AND RESCINDING RESOLUTION NO. 94-600.

WHEREAS, on July 24, 2007 Council approved new fees for wastewater rates effective August 1, 2007, and

WHEREAS, these rates apply the same unit costs for Flow, Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) to all customers and customer classes, and are consistent with Proposition 218 and the State Water Resources Control Board (SWRCB) cost of service requirements, and

WHEREAS, Section 5-6.703 of the Modesto Municipal Code relating to Sewage Collection and Disposal allows the Public Works Director to determine the existence of a violation and may levy a fine for violations of wastewater discharge permits, and

WHEREAS, the ability to fine for violations is a federal and state requirement for industrial pretreatment programs, thus is a mandatory part of the City's program governing sewer use, and

WHEREAS, fines for violations of wastewater permit limits for flow, BOD and TSS must have a nexus relationship to sewer rates, and

WHEREAS, per the Modesto Municipal Code , fines shall be in accordance with a scheduled approved by the Council from time to time by resolution, and are in addition to the wastewater service charges (rates) and are applied to violations of the wastewater permit allocations, and

WHEREAS, the current fine schedule has not been updated since 1994, and

WHEREAS, the administrative fine of $1,100.00 will remain unchanged, and the processing fines will change as follows:

	Existing	Proposed
Fine per million gallons of Flow in excess of permit allocation	$712	$1,475.66
Fine per 1,000 pounds of BOD in excess of permit allocation	$84	$72.98
Fine per 1,000 pounds of TSS in excess of permit allocation	$78	$127.82

, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that wastewater permit violation fines are hereby established as follows:

1. Administrative fine in the amount of $1,100.00 for each violation and per day of each violation.
2. Processing fine in the amount of:
   $1,475.66 per million gallons of flow in excess of permit allocation.

   $72.98 per 1,000 pounds of Biochemical Oxygen Demand (BOD) in excess of permit allocation.

   $127.82 per 1,000 pounds of Total Suspended Solids (TSS) in excess of permit allocation.

BE IT FURTHER RESOLVED that the fines established by this Resolution are in addition to the sewer service charges for processing the wastewater flow which is excess of the permit and that the fine schedule will increase with each succeeding approved wastewater rates increase.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED

NOV 13 2007

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2007-607

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-530

A RESOLUTION APPROVING THE FILING OF AN APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX APPROXIMATELY 3.2 ACRES OF PROPERTY LOCATED NORTH OF KANSAS AVENUE AND EAST OF LONE PALM AVENUE TO THE CITY OF MODESTO AND SEWER DISTRICT NO. 1 AND TO DETACH SAID PROPERTY FROM THE WOODLAND FIRE PROTECTION DISTRICT (OWNER INITIATED – UNINHABITED)

WHEREAS, , 4701 Stoddard, LLC, (applicant) represents Greg and Christine Kyler, Jose Zamora, and Jack McCoy, the owners of approximately 3.2 acres of real property, located north of Kansas Avenue and east of Lone Palm Avenue ("Property"), and

WHEREAS, the City has received a written request from the applicant to initiate annexation of the Property to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, Government Code Section 56650 provides that proceedings to initiate a change of organization to annex additional territory to a City may be initiated by Resolution of Application or Petition, and

WHEREAS, the Property proposed to be annexed is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B", attached hereto and by this reference incorporated herein, and

WHEREAS, the subject territory proposed to be annexed is within Stanislaus County, contiguous to the existing City limits and within the current Sphere of Influence

of the City of Modesto, as adopted by Stanislaus Local Agency Formation Commission, Resolution No. 2004-26, on September 22, 2004, and

WHEREAS, before an annexation application may be heard by LAFCO, there must be an agreement with the County providing for the sharing of property taxes following an annexation, and

WHEREAS, the proposed annexation area is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996, and

WHEREAS, the proposed Property is not subject to a Williamson Act contract, pursuant to Government Code Section 51200, et seq, and

WHEREAS, it is desired to provide that the proposed reorganization be subject to the following terms and conditions:

(a) The annexation of said property, as set forth on **Exhibits "A" and "B"** attached hereto, to the City of Modesto.
(b) The annexation of said property, as set forth on **Exhibits "A" and "B"** attached hereto, to the Modesto Sewer District No. 1.
(c) The detachment of said property from the Woodland Fire Protection District, and

WHEREAS, the reasons for this proposed reorganization to the City of Modesto are as follows:

(a) Staff has received a written request signed by the property owners to annex their properties to the City of Modesto.
(b) The proposed annexation is within the existing Sphere of Influence and is consistent with the Urban Area General Plan and can be most efficiently served by City services.
(c) The proposed annexation will result in planned, orderly and efficient development of the area, and provision of services, and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in Exhibit "C", attached hereto and by this reference incorporated herein, and

WHEREAS, an Initial Study (Environmental Assessment No. EA/C&ED 2006-68) was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR, and

WHEREAS, the Planning Commission held a duly noticed public hearing to consider the proposed application for annexation on April 16, 2007, at 7:00 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California and recommended adoption of a Resolution of Application to annex the property, and

WHEREAS, on September 4, 2007, at 5:30 p.m., in the Tenth Street Place Chambers at 1010 Tenth Street, Modesto, California, the City Council held a duly noticed public hearing to consider the proposed Resolution of Application for annexation of the Property.

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

1. That the proposed annexation and this Resolution of Application are consistent with the Modesto Urban Area General Plan, because they are consistent with General Plan Urban Growth Policy II.C.1.b., which states, "Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services," and because the development resulting from the proposed annexation is consistent with the General Plan.

2. The type of project under consideration is described in Chapter II of the MEIR and is within the scope of the MEIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Baseline Development Area.

3. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or have otherwise been made conditions of approval of the project.

4. That the proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.

5. That no new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2006-68, provides the substantial evidence to support findings 2-5 above.

7. The Property proposed to be annexed to the City of Modesto is uninhabited, and a description of the boundaries of the subject Property is set forth in **Exhibits "A" and "B,"** attached hereto and by this reference incorporated herein.

8. The Property is located within Stanislaus County, and is within the City's existing Sphere of Influence, is contiguous to the existing City limits and can be most efficiently served with City services.

9. The proposed annexation will result in planned, orderly, and efficient development of the area, and the most efficient provision of services.

10. An agreement for the sharing of property taxes for the Property was approved by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996.

11. The Property is not subject to a Williamson Act Contract pursuant to Government Code Section 51200, et seq.

12. The proposed annexation is within the scope of the Urban Area General Plan MEIR (SCH No. 1999082041) and has been adequately analyzed in the MEIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts this Resolution of Application to annex the Property to the City of Modesto and Modesto Sewer District No. 1 and to detach the Property from the Industrial Fire Protection District.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that:

1. All owners of land within the affected Property have given their written consent to the reorganization and therefore, pursuant to California Government Code Section 56663 (c)(1), the City Council consent to waiver of conducting authority proceedings.

2. Pursuant to Government Code Section 56653, the City Council shall submit the plan for providing services as set forth in **Exhibit "C,"** attached hereto and by this reference incorporated herein.

The foregoing resolution was introduced at the regular meeting of the City Council held on the 4th day of September, 2007, by Councilmember O'Bryant, who moved its adoption, which motion was seconded by Councilmember Olsen, and carried by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANNA ALCALA WOOD, City Attorney

Exhibit "A"

WRITTEN DESCRIPTION

EXHIBIT A
LEGAL DESCRIPTION
FOR
LONE PALM No. 2
ANNEXATION
FOR A.P.N. 029-12-12, 19, 20, 21& 22

ALL that portion of the northwest quarter of Section 30, Township 3 South, Range 9 East Mount Diablo Base and Meridian described as follows:

ALL that portion of Lot 4 of Maze Colony, according to the map thereof filed March 24, 1904 in Volume 1 of Maps at Page 83, Stanislaus County Records, more particularly described as follows:

BEGINNING at the southwest corner of said Lot 4 said point being the intersection of the east-west quarter line of said Section 30 and the center line of Lone Palm Avenue; thence along the following courses:

1.) North 1°00'00" West along the west line of said Lot 4, said line also being the center line of Lone Palm Avenue a distance of 660.15 feet to the south line of the Lone Palm No. 1 Governmental Reorganization as filed on June 29, 1981;

2.) North 89°48'40" East along last said line a distance of 329.99 feet;

3.) South 00°59'00" East a distance of 310.09 feet;

4.) South 89°48'50" West a distance of 112.00 feet;

5.) South 00°59'00" East a distance of 20.00 feet;

6.) North 89°48'50" East a distance of 63.10 feet;

7.) South 01°00'00" East a distance of 280.08 feet to a point on a line lying 50.00 feet north of and parallel with south line of the northwest quarter of said Section 30;

8.) North 89°49'00" East along last said line a distance of 378.81 feet to a point on the east line of said Lot 4 and the west line of the Kansas Avenue Addition filed as instrument No. 78-4617, Stanislaus County Records;

9.) South 0°59'00" East along last said line a distance of 50.00 feet to the southeast corner of said northwest quarter of Section 30;

10.) South 89°49'00" West along the south line of said northwest quarter a distance of 659.80 feet more or less to the **POINT OF BEGINNING.**

Contains: 218,342 sq.ft. 5.01 acres, more or less

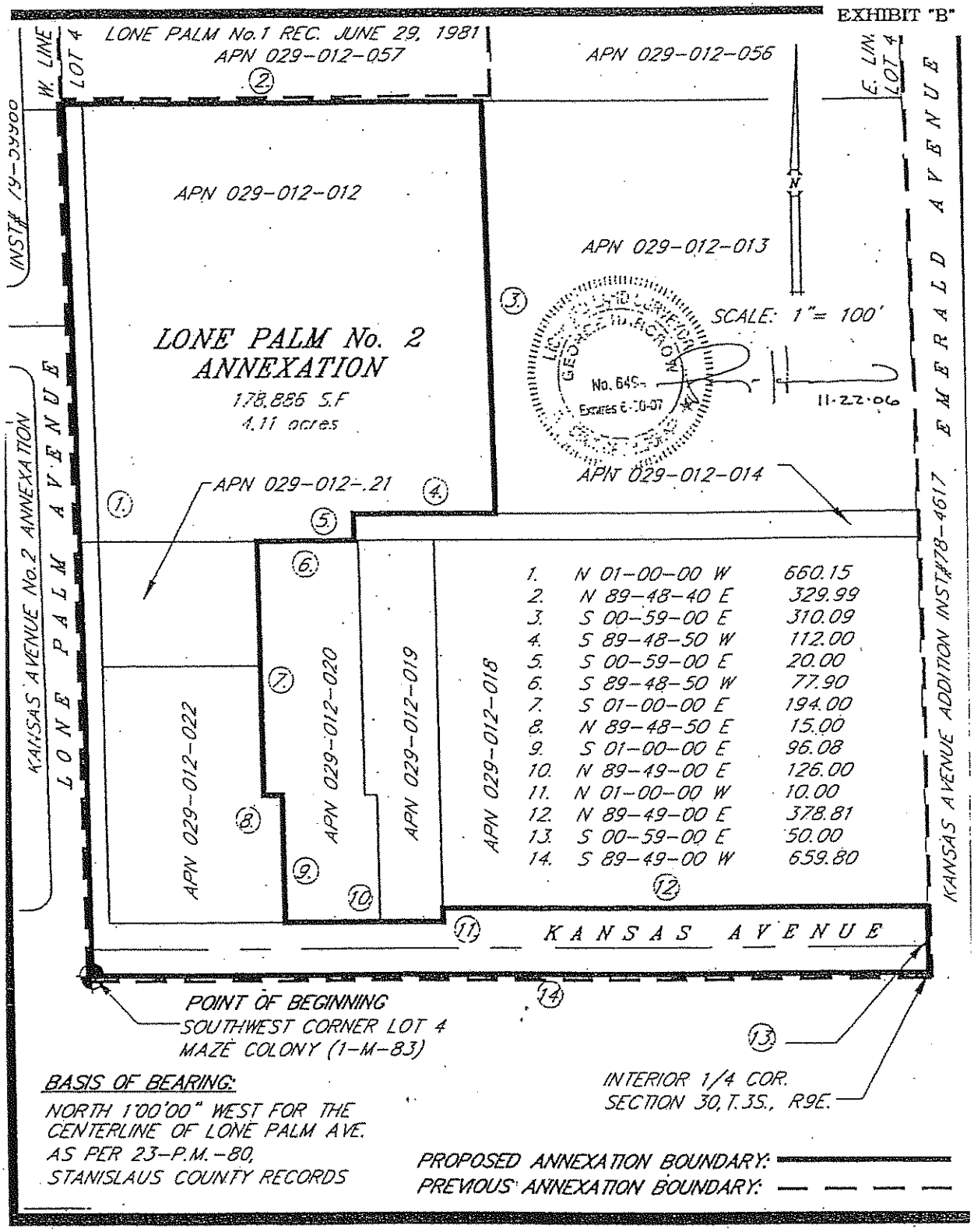
This real property description was prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

3.20.06

George Harcrow L.S. 6494 Date
License Expires 6/30/07

Exhibit "B"

ANNEXATION PROPOSAL MAP



ANNEXATION MAP

Exhibit "C"

PLAN FOR SERVICE

KANSAS-LONE PALM REORGANIZATION
PLAN FOR PROVIDING SERVICES

Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the Kansas-Lone Palm Reorganization.

A. The project site is part of the Baseline Developed Area, as described in the Modesto Urban Area General Plan, adopted August 15, 1999, and amended March 4, 2003. As part of the approval, community facilities and services were analyzed in detail in Initial Study Environmental Checklist (C&ED No. 2006-68). These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, schools, parks, fire protection, and police protection. The City of Modesto is a full service city that intends to provide the following services.

1. Traffic and Circulation: The bulk of the external roadway network is already constructed. The applicant or developer must construct roadway improvements along the project frontage to City standards.

2. Waste Water Collection: Upon reorganization, the site will annex to Modesto's Sewer District No. 1. Sewer service will be provided to the subject site from an existing eight-inch line in Lone Palm Avenue adjacent to the site. The City does not anticipate a substantial demand for service at this site. Service will be extended upon development of the site at no cost to the City, as existing City fees will cover the cost.

3. Water Delivery: There is an adequate quantity of water to serve the industrial development expected to occur on the property. The site will be served from an existing 10-inch water line in Lone Palm Avenue adjacent to the site.

4. Storm Water Drainage: Storm water drainage for this project must be contained on site. The City of Modesto has received and is in the process of reviewing a Vesting Tentative Subdivision Map for the project, which is being revised, but is expected to include French drains. Prior to approval of the Vesting Tentative Subdivision Map, the City must approve the storm water drainage, ensuring its adequacy. The storm water drainage system will be constructed by the applicant at the applicant's expense.

5. Solid Waste Disposal: Weekly pickup will be extended to the annexation area upon the effective date of annexation.

6. Fire Protection: Upon reorganization, the annexation area will be detached from the Woodland Fire Protection District. The Modesto Fire Department has indicated that it can provide adequate service to the subject site following annexation.

7. Police Protection: The Modesto Police Department has indicated that it is able to provide adequate service to the subject site without additional staffing, as industrial property does not require substantial additional policing.

B. Level and range of services

The City of Modesto is a full service provider of municipal services and intends to provide the complete service for those areas identified above.

C. When can services be provided?

The above-described services can be provided upon the effective date of annexation.

D. Improvements required as a condition of reorganization

No improvements are required as a condition of reorganization. The following improvements will be required as a condition of development:

- Prior to issuance of a building permit, the applicant(s) shall construct roadway improvements to the satisfaction of the City Engineer.
- Prior to approval of the Vesting Tentative Subdivision Map, the City must approve the storm water drainage basin.

E. How will services be financed?

Services will be financed through City fees.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-531

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): ANNEXATION TO THE CITY OF MODESTO AND MODESTO SEWER DISTRICT NO. 1 AND DETACHMENT FROM THE WOODLAND FIRE PROTECTION DISTRICT OF APPROXIMATELY 3.2 ACRES OF PROPERTY LOCATED NORTH OF KANSAS AVENUE AND EAST OF LONE PALM AVENUE (OWNER INITIATED – UNINHABITED)

WHEREAS, on August 15, 1995, by Resolution No. 95-409, the City Council of the City of Modesto certified the Master Environmental Impact Report ("EIR") for the Urban Area General Plan (SCH No. 1999082041), and

WHEREAS, on March 4, 2003, by Resolution No. 2003-122, the City Council of the City of Modesto certified the amendments to the Master EIR for the Urban Area General Plan (SCH No. 1999082041), and

WHEREAS, 4701 Stoddard, LLC, has filed an application requesting that the approximately 3.2 acres of property located north of Kansas Avenue and east of Lone Palm Avenue ("Property") be annexed to the City of Modesto, and Modesto Sewer District No. 1, and detached from the Woodland Fire Protection District, and

WHEREAS, the Resolution of Application is hereafter referred to as "the Project", and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR

and whether the subsequent project was described in the Master EIR as being within the scope of the project, and

WHEREAS, the Initial Study EA/C&ED 2006-68 was considered by the City Council at a duly noticed public hearing which was held on September 4, 2007, at 5:30 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study prepared for the proposed Projects, a copy of which it attached hereto as **Exhibit "A"** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The type of Projects under consideration are described in Chapter II of the Master EIR.

2. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to The Projects or have otherwise been made conditions of approval of the Project.

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR. It has been determined that the project was described in the MEIR and is within the scope of the MEIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Baseline Developed Area.

4. Based on the Initial Study, the City of Modesto finds and determines:

    a. That the proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
    b. That no new or additional mitigation measures or alternatives are required.

5. The Initial Study, Environmental Assessment No. EA/C&ED 2006-68, provides the substantial evidence to support findings 1 through 4, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community and Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at the regular meeting of the City Council held on the 4th day of September, 2007, by Councilmember O'Bryant, who moved its adoption, which motion was seconded by Councilmember Keating, and carried by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANNA ALCALA WOOD, City Attorney

Exhibit "A"

INITIAL STUDY
EA/C&ED 2006-68

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2006-68

For the proposed

Kansas-Lone Palm Reorganization
(4701 Stoddard LLC, Applicant)

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

March 15, 2007

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the **Kansas-Lone Palm Reorganization** is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. It will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. No new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

City staff consulted with appropriate Responsible Agencies and City Departments regarding potential environmental impacts associated with this project. Any significant comments and conditions are incorporated into this Initial Study. The City's MEIR (SCH# 1999082041) was also consulted which lists both General Plan policies and mitigation measures for each area of environmental study.

II. PROJECT DESCRIPTION

A. Title: Kansas-Lone Palm Reorganization

B. Address or Location: Northeast of the intersection of Kansas and Lone Palm Avenues in a County "island" within the City of Modesto's Sphere of Influence

C. Applicant: 4701 Stoddard LLC
1020 10th Street, Suite 300
Modesto, CA 95354

D. Application Contact Person: Gregory Kyler and Joe Muratore

City Project Manager:	Cindy van Empel, Senior Planner
Department:	Community & Economic Development Department
Phone Number:	(209) 577-5280
E-mail address:	cvanempel@modestogov.com

E. Current General Plan Designation(s): I, Industrial

F. Current Zoning Classification(s): Stanislaus County has zoned the property M, Industrial; the property is prezoned (P)M-1 (Light Industrial)

G. Surrounding Land Uses:
West: light industrial, office
North: distribution, light industrial, office
East: church, retail, office, light industrial, residential (designated for industrial use)
South: light industrial, office, retail

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

The applicant seeks to annex three lots comprising 3.19 acres to the City of Modesto to allow more intensive development than would be permitted without public sewer and water connections. This action will also require detachment from the Woodland Fire Protection District and annexation to the City of Modesto Fire Department's service area and Modesto Municipal Sewer District #1.

A Vesting Tentative Subdivision Map for the site has been filed with the Community and Economic Development Department. Because staff has an application for a Subdivision Map, an evaluation of the proposed Subdivision Map is included in this Finding of Conformance. However, the Subdivision Map cannot be processed until after the project site is annexed and the zoning becomes effective.

The proposed Vesting Tentative Subdivision Map is proposed on the entire 3.19-acre site and will include eight lots ranging in size from 0.24 to 0.49 acres. Four parcels will have street frontage and the remaining four parcels will be accessed from Lone Palm Avenue via a proposed 20-foot access easement. Both Lone Palm Avenue and Kansas Avenue will be improved with curb, gutter, and sidewalk for an additional 30 feet from the roadway centerlines, including 20 feet of traveled roadway, a six-foot sidewalk adjacent to the traveled way, and a four-foot landscape setback behind the sidewalk. Sewer and water are available and service will be taken from the 10-inch water line and 8-inch sewer line in Lone Palm Avenue.

A map of the site area is shown as Exhibit A, the annexation map is Exhibit B, and the proposed Vesting Tentative Subdivision Map is Exhibit C.

I. Other Public Agencies Whose Approval is Required:

Local Agency Formation Commission

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

2. ___ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ___ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Cynthia Van Empel — Project Manager

Senior Planner — Title

26 March 07 — Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to this document.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	☐

Discussion:

(1) The City of Modesto is the Lead Agency for processing the requested land use entitlements (i.e.: prezoning and annexation).

(2) The subject project proposes improvements to a site located within the Baseline Developed Area. The site is comprises three lots which are occupied by a total of five dwellings and various accessory buildings.

(3) The Master EIR was last updated in March 2003. Since that update, there have been no changes to Federal, State, Regional and County regulations that have not resulted in less restrictive regulations.

(4) The subject site, 3.19 acres designated in the Urban Area General Plan as I (Industrial) and prezoned (P)M-1 (Light Industrial), is proposed to be annexed to the City of Modesto. After the application proposals were referred to Trustee Agencies, no significant resources are identified in this proposal

(5) The subject area is located within the Modesto Urban Area General Plan in the Baseline Developed Area, as shown on Figure II-1 on page II-8 in the General Plan. All appropriate mitigation measures as listed in the Master EIR and attached to this document are incorporated into the project.

(6) A Global list of General Plan Policies and Mitigation Measures was reviewed (which is attached to this document) and appropriate Mitigation Measures will be required as part of the project's approval.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a Finding of Conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 build out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-6 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

The Master EIR for the Urban Area General Plan included the subject site. The annexation of property designated for industrial uses is consistent with the Master EIR. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

Where a project exceeds an additional 100 ADT contribution, as compared to the analysis in the Master EIR, a site access study will be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study will recommend new, project-specific mitigation measures. Where the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering and Transportation staff, a comprehensive traffic study will be required that will include off-site traffic impact analysis.

		YES	NO
(1)	The project would contribute more than an additional 100 average daily trips (ADT) to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR. City Engineering & Transportation Staff will review the project to determine whether the project contributes more than 100 ADT thresholds. Such Projects are presumed to generate more trips than assumed by the Master EIR.	☐	X
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

Discussion:

(1) The project was referred to the Engineering and Transportation Division of the Public Works Department. Staff did not cite the need for a site access study.

(2) The project was referred to the Engineering and Transportation Department and the Transportation Division commented that City's Standards Specifications require that Lone Palm Avenue be dedicated and improved to full City Street Standards when development is approved for the site. Certain other street improvements will be established during review of the Vesting Tentative Subdivision Map.

(3) The project was referred to the City of Modesto Police and Fire Departments. The City Fire Marshal and the Police Department indicated that those departments are able to provide adequate service to the site. When development is approved, specific conditions will be applied to that future development to ensure compliance with City development standards.

(4) Annexation and prezoning will have no effect on parking in the area. Future development on the site will be required to comply with City standards for parking.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NO_X levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 in the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

Construction impacts would be less than significant with implementation of Mitigation Measure Air-1 (page V-2-24 in the MEIR). No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

Discussion:

(1-3) Annexation of this property, designated for Industrial use, was anticipated in and is consistent with the Urban Area General Plan Master EIR. Future development of the site will occur following the approval of a Vesting Tentative Subdivision Map, which is addressed under this Finding of Conformance and will require no further environmental review. Development projects must comply with Rules established by the San Joaquin Valley Unified Air Pollution Control District for reducing air quality impacts.

(4) The site is designated for Industrial use and adjoins property designated for light industrial uses on all sides. The site is expected to be developed with industrial uses in the future, which may result in substantial air pollution, however, as the area develops, the existing residential properties, which are considered to be legal non-conforming uses, will be redeveloped with light industrial uses. The church east of the site lies in the County, which agency considers churches to be compatible with industrial development because of the short-term duration of occupancy.

(5) The site is designated for Industrial use and adjoins industrially-designated property on all sides. The site is expected to be developed with light industrial uses in the future, which could result in objectionable odors. Although there are residences nearby, these are considered to be legal non-conforming uses because the properties are designated for industrial use.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-9 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project.

Discussion:

Table V-3-3 indicates the normally acceptable outdoor noise level in an industrial area is 70dB CNEL. The project site is near State Route 99, which has a substantial noise footprint. The project site lies between the 65dB L_{dn} and 60dB L_{dn} contours for State Route 99. L_{dn} is a noise measure that factors in use of a site during non-business (evening and nighttime) hours. Industrial uses are typically compatible with an outdoor noise environment of up to at least 70 dB; because the greatest noise level expected on the site is approximately 65dB L_{dn}, no mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate conditions of approval that satisfy City development standards. The existing houses are expected to be removed in the near future.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

Discussion:

(1) The typically acceptable outdoor noise level is at least 70dB CNEL and the site lies between the 65dB and 60dB L_{dn} noise contours, thus, no significant impact from noise would be expected on the project site.

(2-3) The subject site is planned for Industrial use and is adjacent to properties planned for and developed with industry. No sensitive receptors are in the vicinity of the site. Future development on site is expected to be consistent with that on surrounding properties and is expected to result in a similar noise environment.

(4) Although the project site lies in an industrial area, exterior noise levels could rise to unpleasant levels if more than one piece of construction equipment is operating simultaneously. In order to reduce the temporary noise impacts associated with construction, equipment should be equipped with mufflers, shrouds, and shields for noise reduction. Construction activity must comply with the City's noise ordinance.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts related to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-4 through V-4-8 in the MEIR.

Discussion:

The subject property is designated for Industrial use and is not in agricultural production. Further, the site is identified by the California Department of Conservation as Important Farmland on Figure V-4-1 in the MEIR. The project site is also shown as lying within the Baseline Developed Area, as shown on page II-8 in the Urban Area General Plan. Policy AL-17 (MEIR, page V-4-7) states that if a subsequent project is within the Baseline Developed Area, the project is considered to have a minimal effect on the conversion of agricultural land and no mitigation is required. Thus, no new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use.	☐	X

Discussion:

(1) The Modesto Urban Area General Plan designates the site as I, Industrial. No change in the Industrial designation is proposed. The site has been prezoned to (P)M-1 and the site would be developed with light industrial uses.

(2) The subject site is within the March, 2003, planning area boundary.

(3) The site is not zoned for agriculture, nor is there a Williamson Act contract on the property.

(4) The site is in the Baseline Developed Area, and, thus, is considered to have a minimal effect on the conversion of agricultural land.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer overdraft. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that any increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by 2020. Modesto will have a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts on development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan. It is located in an area that is developed with industrial uses. The proposed annexation and Vesting Tentative Subdivision Map are consistent with the City's General Plan.

(2) There is an adequate quantity of water to serve the industrial use expected to occur on the property, as demonstrated by a Will Serve letter dated (3 November, 2006) solicited by the applicant and provided by the City of Modesto, the water purveyor for the area..

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a)(MEIR mitigation SS-1, page V-6-2). Implementing the WMP, requiring the implementation of Best Management Practices for post-construction activities, and Urban Area General Plan policy V-D.2(a), will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under the Wastewater Master Plan MEIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-2 through V-6-7 of the MEIR. All feasible measures appropriate to the project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan. It is located in an area that is developed with industrial uses. Annexation and the proposed Vesting Tentative Subdivision Map will result in ultimate development of the site consistent with the City's General Plan.

(2) Annexation and development of the site will be consistent with the existing Industrial designation and prezoning on the site. An eight-inch sewer line lies adjacent to the project site in Lone Palm Avenue, to which future development on the site must connect. Because industrial development typically creates small amounts of wastewater, the City has indicated with a Will Serve letter (dated 3 November, 2006) requested by the applicant that there is a reasonable certainty that adequate sewer service will be available to serve the property, consistent with City policy.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-15 through V-7-21 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

The project site lies outside the Biological Resource Study Area, shown on Figure V-7-1a in the MEIR. Therefore, no mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation and Vesting Tentative Subdivision Map are consistent with the City's General Plan.

(2) The site lies outside the Biological Resource Study Area and there is no specific information known that would suggest the possible presence of significant plant or animal species on or near the project site.

(3) The City has no policies or ordinances to protect biological resources that would apply to the project site, which lies well within the Modesto urbanized area and outside the Biological Resource Study Area.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. No impact would be expected to occur, since the buildings to be removed or demolished are not considered to have historical significance.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-8-9 through V-8-14 in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

The site proposed for annexation into the City of Modesto is currently occupied by two mobile homes and some accessory structures, but is otherwise vacant. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation, prezoning, and Vesting Tentative Subdivision Map applications for this site are consistent with industrial uses anticipated by the Urban Area General Plan.

(2) Although there are buildings on the site that appear to be more than 50 years old, none of the buildings is identified as a local landmark or other historic resource, thus no impacts are expected to occur.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-3 through V-9-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

Future development of the site will occur following approval of a Vesting Tentative Subdivision Map and demolition of existing structures. French drains have been proposed and are expected to be adequate to serve the project. The Department of Public Works will require a soils study that includes percolation/infiltration information in order to ensure the drainage system is correctly designed. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off site.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. Annexation of the property to the City and the proposed Vesting Tentative Subdivision Map are consistent with the City's General Plan.

(2-3) The project does not include site development. However, the City has received an application for a Vesting Tentative Subdivision Map and the applicant has indicated that French drains will be used for storm water drainage. The Department of Public Works has indicated that properly designed French drains will be adequate to serve the site. Future development will be required to control storm drainage in accordance with the City's Guidance Manual for New Development Stormwater Quality Control Measures.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-4 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

As shown on Figure V-10-1b in the MEIR, the project site does not lie in an area having a potential for flooding. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:

(1) The subject site, designated Industrial in the Modesto Urban Area General Plan, is consistent with the City's General Plan and is located in an area that is developed with industrial uses.

(2) Development on the site will be required to comply with the Clean Water Act and the Porter-Cologne Act. The City will require adherence to any Clean Water Act requirements it deems appropriate.

(3) Future development on the site must comply with the City's Guidance Manual for New Development Storm Water Quality Control Measures. Compliance is ensured through review of building plans and building inspection.

(4) The site will be developed to City standards with full street improvements along the project's Lone Palm and Kansas Avenue frontages. The appropriate design of the French drain system will be verified by City staff when soils tests and percolation/infiltration information becomes available, prior to Final Map.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the proposed project are found on pages V-11-3 through V-11-9 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. All feasible measures appropriate to the project that will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

Discussion:

(1) The subject site is designated Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation and proposed Vesting Tentative Subdivision Map are consistent with the City's General Plan. Appropriate Capital Facility Fees, including parks fees, must be paid before any building permits can be issued. Fees applied to new development on the site will be those fees in effect at the time the Vesting Tentative Subdivision Map is approved.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, eight middle schools, and seven high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that increased enrollment would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-3 through V-12-7 in the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

Discussion:

(1) The subject site is designated Industrial in the Modesto Urban Area General Plan, with which the proposal is consistent. The site is located in an area that is developed with industrial uses.

(2) Future development on the site will be required to comply with the provisions of SB 50/Proposition 1A and must pay schools fees in effect at the time the Vesting Tentative Subdivision Map is approved.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-2 through V-13-4 in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

Discussion:

(1) The subject site is designated Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. Future development on the site is expected to be industrial and, therefore, consistent with the City's General Plan.

(2) The Police Department's ideal ratio of officers to residents is 1.85 per 1,000, although the current ratio is approximately 1.3 per 1,000. The Modesto Police Department has indicated that it has the ability to provide adequate service to the project site.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study.

Fire Services mitigation measure(s) pertinent to the proposed project are found on pages V-14-2 through V-14-5 of the MEIR. All feasible measures appropriate to the project that will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation and proposed Vesting Tentative Subdivision Map are consistent with the City's General Plan.

(2) The Woodland Fire Protection District currently provides fire protection to the project site. The site must detach from the Woodland Fire Protection District and attach to the City of Modesto Fire Department service area as part of annexation, which will result in a reduction in revenue to the Woodland Fire Protection District (WFPD). The Local Agency Formation Commission has requested a financial analysis be included as part of the environmental review, however, the project site lies within the City of Modesto's Sphere of Influence and is anticipated in the City's General Plan and Master EIR to eventually annex to the City of Modesto and the City's service areas. Although the Woodland Fire Protection District would lose the revenue produced by these 3.19 acres, the WFPD can replace that revenue by increasing the assessment on the properties in its remaining service area. Additionally, the City of Modesto responds to emergency calls in this County island, providing redundancy and improving overall fire protection service to the island, therefore, no physical environmental impact on fire protection service would result from detachment from the WFPD and attachment to the Modesto Fire Department's service area. Further, reducing or eliminating the services provided by the WFPD to isolated pockets would be more cost-effective and efficient than providing services to disparate areas. The Modesto Fire Department has indicated that it can provide adequate service to the subject site. Future development on the site will be required to meet all City Fire safety requirements. Financial impacts on the Woodland Fire Protection District are not a CEQA concern.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: Since the project would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the proposed project are found on pages V-15-3 through V-15-6 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

Discussion:

(1) The subject site is designated Industrial in the Modesto Urban Area General Plan. The site is located in an area that is developed with industrial uses. The annexation and prezone and expected future industrial development are consistent with the City's General Plan.

(2) This project was referred to the Solid Waste Division of the City's Department of Public Works, which had no comment regarding this project's impact on solid waste disposal capacity.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under Federal, State, and County policies and regulations and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to this document.

Hazardous Materials Mitigation Measures pertinent to the project being analyzed in this Initial Study are found on pages V-16-5 through V-16-12 in the MEIR. Because the property is planned for industrial uses, it is possible that future property owners or building tenants may have hazardous materials on site. Mitigation measures from the MEIR will be applied to the Vesting Tentative Subdivision Map to ensure compliance will all appropriate regulations. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

Actions to approve the annexation, prezoning, and Vesting Tentative Subdivision Map do not require mitigation measures for hazardous materials, as these approvals do not generate hazardous materials. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts due to development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable Federal, State, and County standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The project and future light industrial development expected to occur on the site are consistent with the City's General Plan.

(2) Because the property is planned for light industrial uses, it is possible that future property owners or building tenants may have hazardous materials on site other than those normally expected in offices. The Vesting Tentative Subdivision Map will be conditioned ensure that any hazardous materials used on site are properly identified, handled, and stored.

(3-5) The City's Final Master Environmental Impact Report lists hazardous materials sites and this project is not on or near any of those sites. Additionally, the property lies more than ¼ mile from the nearest school.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-5 through V-17-7 in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures pertinent to the project are found on pages V-17-5 through V-16-12 in the MEIR. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation and Vesting Tentative Subdivision Map are consistent with the City's General Plan.

(2) According to the MEIR's physical description of the General Plan study area, the site is not located in area subject to landslide, lateral spreading, subsidence, liquefaction or collapse.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kiloWatt hours (kWh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan. It is located in an area that is developed with industrial uses. The annexation and Vesting Tentative Subdivision Map are consistent with the City's General Plan.

Parking areas that will eventually be created to serve future development will be required to contain shade trees as required in the Modesto Municipal Code. Enforcement will occur through site plan review when building permits are applied for.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community.	☐	X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area developed with industrial uses. Annexation is consistent with expansion of the City described in the General Plan. The site has been prezoned to (P)M-1, Light Industrial. Light Industrial uses consistent with the Industrial designation will be developed on the property.

(2) The project involves annexation to the City consistent with expansion of the City anticipated in the General Plan. No amendment to the Modesto Urban Area General Plan is proposed.

(3) The project is an expansion of an existing industrial area; no community will be divided as part of this proposal, although five existing residences and their accessory structures will be constructed. This is consistent with development anticipated in the Urban Area General Plan.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area developed with industrial uses. Annexation would have no effect on aesthetics, however, eventual development on the site would change the character of the site from a low-density residential area to a light industrial or business park development.

(2-4) The project is located within an established industrial area and there are no scenic vistas of or from the area. The expansion of the existing light industrial area is consistent with the type of development in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

Traffic and Circulation Measures:

None.

Air Quality Measures:

Mitigation Measure Air-1: PM10 Control Measures (page V-2-24 of the MEIR)

1. SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites:

   a. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover

   b. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

   c. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

   d. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

   e. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

   f. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. *(the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)*

g. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

h. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

i. Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

Noise Measures:

None

Agricultural Land Measures:

None

Water Supply Measures:

None

Sanitary Sewer Service Measures:

None

Sensitive Wildlife and Plant Habitat Measures:

None

Archaeological or Historic Sites Measures:

None

Storm Drainage Measures:

Mitigation Measure SD-4 (page V-9-4 of the MEIR)

Plans and specifications for new stormwater facilities within the City of Modesto are reviewed and approved by the engineering and Transportation Department. Development of stormwater drainage facilities must be in compliance with the requirements for the installation of Best Management Practices (BMPs) as defined in the City's Comprehensive Stormwater Management Program (CSMP), and as outlined in the City of Modesto Design Standards for Dual Use Flood Control/Recreation Facilities, adopted December 12, 2000.

Mitigation Measure SD-5 (page V-9-4 of the MEIR)

Two-thirds of the Baseline Developed Area is served by underground injection of urban runoff, commonly termed "rockwells." New rockwells will be discouraged within the Baseline Developed Area. Instead, new storm drainage in the Baseline Developed Area shall be by means of appositive storm drainage systems unless the proposed service area is so isolated from surface waters that it is infeasi8ble to provide positive drainage.

The new storm drainage facilities shall consider the drainage facility requirements presented in Table 9-1 of the Master EIR. This policy applies to both positive storm drainage systems and to new rockwells (which are generally discouraged) in the Baseline Developed Area. (General Plan Policy V-E.2[a])

Mitigation Measure SD-6 (page V-9-4 of the MEIR)

The Modesto Irrigation District shall be consulted during the preparation of drainage studies required by the Urban Area General Plan. (General Plan Policy V-E.2[b])

Mitigation Measure SD-7 (page V-9-4 of the MEIR)

The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and Environmental Protection Agency for underground injection. (General Plan Policy V-E.2[c])

Mitigation Measure SD-8 (page V-9-4 of the MEIR)

Storm water drainage facilities shall be constructed, operated, maintained, and replaced in a manner that will provide the best possible service to the public, given the financial abilities and constraints of the City and of the private sector alike. In developing implementation plans, consideration shall be given to rehabilitation of existing facilities, remediation of developed areas with inadequate levels of drainage service, and the timely expansion of the system for future development. (General Plan Policy V-E.2[d])

Flooding and Water Quality Measures:

None

Parks and Open Space Measures:

None

Schools Measures:

None

Police Services:

None

Fire Services:

None

Generation of Solid Waste

None

Generation of Hazardous Materials

Mitigation Measure HM-3 (page V-16-5 of the MEIR)

Hazardous Materials Release Response Plans and Inventory Act of 1985.

The Hazardous Materials Release Response Plans and Inventory Act (Section 25500 et seq. of the Health and Safety Code, also known as the Business Plan Act), requires businesses using hazardous materials to prepare a plan that describes their facilities, inventories materials and sets of emergency response plans, and training programs. Hazardous materials are defined as raw or unused materials that are part of a process or manufacturing step, and they are not considered hazardous wastes. Health concerns pertaining to the release of hazardous materials, however, a similar to those relating to hazardous wastes. Often, the facilities subject to this act also generate hazardous wastes. Reports are filed with Stanislaus County. The required plan also informs emergency responders of hazardous materials.

Mitigation Measure HM-10 (page V-16-7 of the MEIR)

The California Environmental Protection Agency is authorized to endow qualifying local agencies with oversight and permitting responsibility for certain state programs. The Unified Program was created by state legislation in 1993 to consolidate, coordinate, and make consistent the administrative requirements, permits, inspections, and enforcement activities for the following environmental and emergency management programs:

a. Hazardous Materials Release Response Plans and Inventories (Business Plans)
b. California Accidental Release Prevention (CalARP) Program
c. UST Program
d. Aboveground Petroleum Storage Act Requirements for Spill Prevention, Control and Countermeasure (SPCC) Plans
e. Hazardous Waste Generator and Onsite Hazardous Waste Treatments (tiered permitting) Programs
f. California Uniform Fire Code: Hazardous Material Management Plans and Hazardous Material Inventory Statements

Mitigation Measure HM-12 (page V-16-8 of the MEIR)

Stanislaus County is a Certified Unified Program Agency authorized to administer a number of state programs at the local level. It regulates hazardous materials within its incorporated (including Modesto) and unincorporated areas. The County's role includes the following (Stanislaus County 2002):

1. Implement Risk Management and Prevention laws to minimize chemical releases in the community.
2. Maintain hazardous materials response team to assist police and fire agencies during transportation and industrial accidents involving chemical spills.
3. Prepare and implement county's Area Plan for emergency response to chemical spills in the community.
4. Permit and inspect removal of USTs.
5. Permit and monitor new USTs.
6. Oversee site investigation for soil and ground water contamination and clean-up.
7. Inspect hazardous waste generators.
8. Review procedures for storage, treatment and disposal of hazardous wastes.
9. Prepare and implement the county Hazardous Waste Management Plan.
10. Develop and implement the county Household Hazardous Waste collection program.
11. Inspect medical facilities to ensure compliance with state medical waste management laws.
12. Implement hazardous materials disclosure laws (business plans) to ensure access to information about chemicals handled by businesses.

Mitigation Measure HM-13 (page V-16-9 of the MEIR)

The City shall comply with all existing federal and state laws, which regulate the generation, transportation, storage, and disposal of hazardous materials (General Plan Policy V-M.2[a]).

Potential for Landslides and Seismic Activity

Mitigation Measure LSA-9 (page V-17-6 of the MEIR)

The City shall continue to require all new buildings in the City to be built under the seismic requirements of the Uniform Building Code, 1979 (or subsequent) edition. (General Plan Policy VI-B.2[b])

Mitigation Measure LSA-11 (page V-17-7 of the MEIR)

Any construction which occurs as a result of the Urban Area General Plan must conform with the current UBC regulations, which address seismic safety of new structures and slope requirements. As appropriate, the City will require a geotechnical analysis prior to tentative map review in order to ascertain site-specific subsurface information necessary to estimate foundation conditions. These geotechnical studies should reference and make use of the most recent regional geologic maps available from the California Department of Conservation Division of Mines and Geology. (General Plan Policy VI.E.1[a])

Energy

None

Planning and Land Use

None

Aesthetics

None

B. Recommended Conditions of Project Approval

1. The Vesting Tentative Subdivision Map application cannot proceed to Planning Commission until the annexation process is complete.

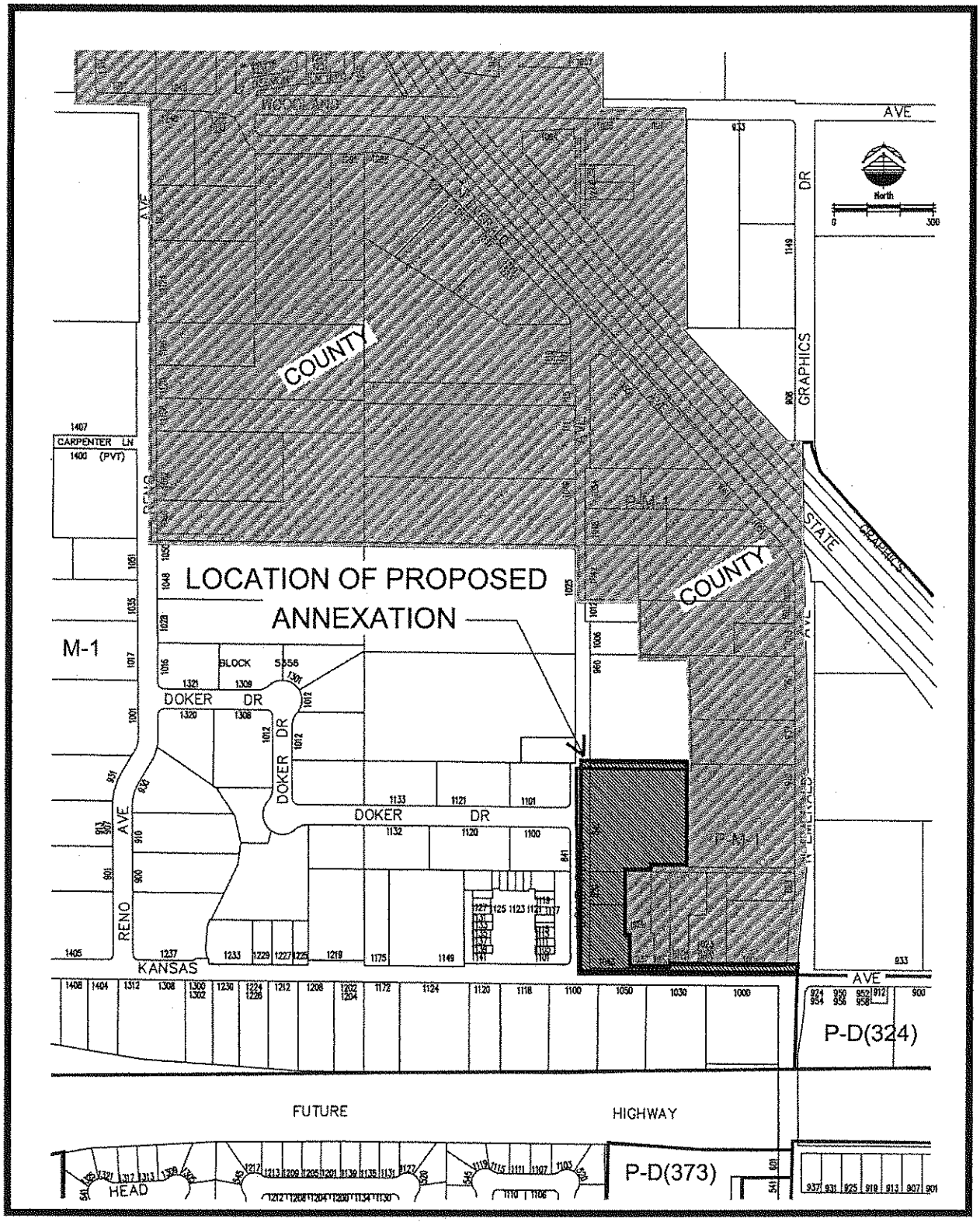
2. Prior to approval of the Vesting Tentative Subdivision Map or the issuance of any building permits, storm water control facilities must be constructed that meets City standards and as approved by the Director of Public Works.

3. The property must be annexed to Modesto Municipal Sewer District #1. Sewer service shall be taken from Lone Palm Avenue.

4. Storm water quality and runoff from the site must be mitigated. Development guidelines must be followed.

5. Improvement plans shall be prepared by a California-licensed civil engineer and in accordance with City of Modesto standards.

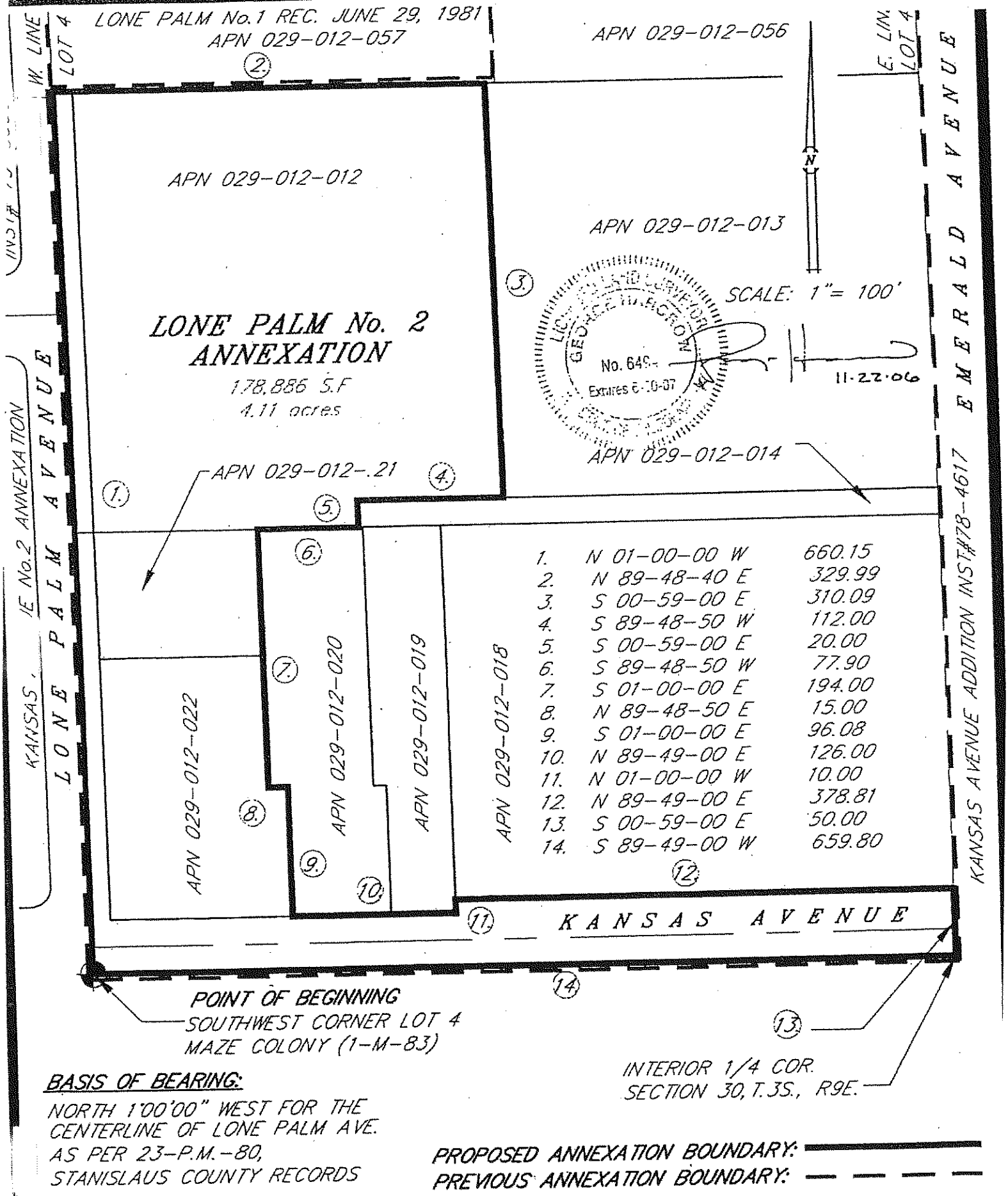
Exhibit "A"



North

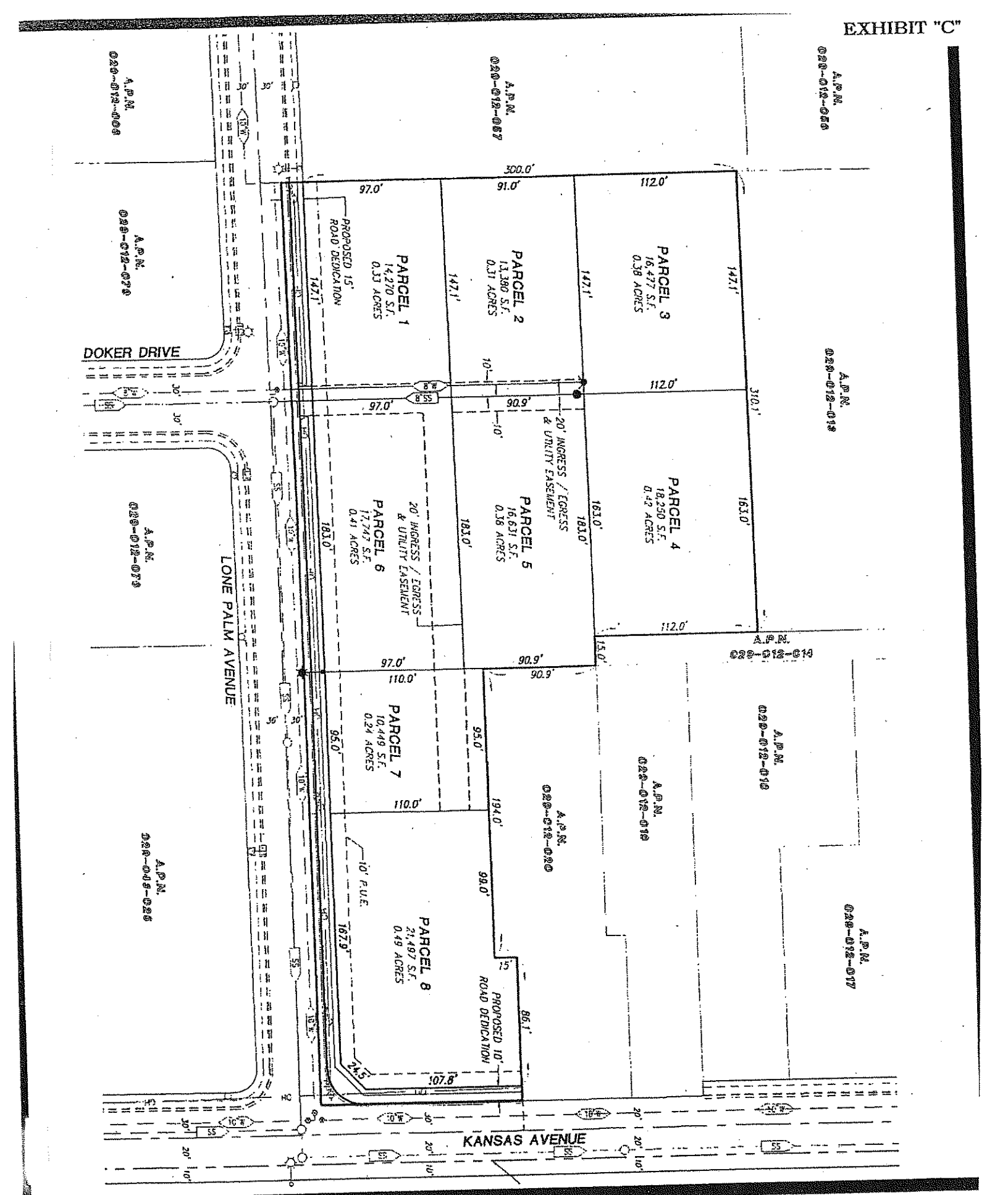
AREA MAP OF PROPOSED
ANNEXATION

EXHIBIT "B"



ANNEXATION MAP

EXHIBIT "C"



SUBDIVISION MAP

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-532

A RESOLUTION ACCEPTING THE REPORT OF THE PUBLIC WORKS DIRECTOR REGARDING THE DEMOLITION AND ABATEMENT OF THE DANGEROUS BUILDING OWNED BY MR. VERLON STARKEY, AT 1315 D STREET, LOCATED ON PROPERTY COMMONLY KNOWN AS 401 14TH STREET, DECLARING THE DEMOLITION AND ABATEMENT COMPLETE, ACCEPTING THE EXPENSES INCURRED, AUTHORIZING THE ASSESSMENT OF CHARGES IN THE AMOUNT OF $6,542.08, AND ASSESSING THE CHARGE TO MR. STARKEY AS A PERSONAL OBLIGATION.

WHEREAS, the auto shop and attached carport at 1315 D Street, located on property known as 401 14th Street, was determined to be substandard following an inspection on June 19, 2006, and

WHEREAS, this commercial structure had been empty for almost five years, and

WHEREAS, fire damage to the roof caused it to sag, which caused the exterior walls of the building to be pushed out of plumb, and

WHEREAS, the exterior walls also received severe damage as a result of a car accident and the attached carport had been vandalized, making it a "lean-to" for the homeless to sleep under, and

WHEREAS, on July 3, 2006 a Notice and Order was issued declaring the building to be dangerous per Chapter 2, Section 202 and Chapter 3, Section 302 of the City of Modesto Dangerous Buildings Code, and

WHEREAS, in the Notice, Mr. Verlon Starkey, the owner, was required to obtain the appropriate permits for the demolition of the building within 60 days and to physically commence work, with demolition to be completed by August 28, 2006, and

WHEREAS, Mr. Starkey failed to respond the Notice and Order and this matter went before the Board of Building Appeals (Board) on September 21, 2006, where Mr. Starkey and Supervising Building Inspector Bert Lippert both gave testimony, and

WHEREAS, on January 16, 2007, the Board issued a Notice of Decision and Order Declaring Nuisance and directing the owner to abate said nuisance within 30 days , and

WHEREAS, Mr. Starkey failed to comply with the Decision and Order to demolish the property within 30 days and the City proceeded to obtain demolition bids, and

WHEREAS, City entered into a contract for services with the lowest bidder, Accelerated Concrete Cutting, and

WHEREAS, in late March 2007 City requested permission from Mr. Starkey to enter the property for the purpose of demolishing the structure and Mr. Starkey refused to grant access to the property, and

WHEREAS, City took further action and applied for an Inspection Warrant from the Superior Court of California, County of Stanislaus, which was issued on April 2, 2007 giving the City fourteen (14) days to perform the demolition, and

WHEREAS, the demolition was performed by Accelerated Concrete Cutting on April 5, 2007 and the property has now been abated of the nuisance by the demolition of the dangerous building, and

WHEREAS, City has incurred $6,542.08 for the demolition and abatement of the property as follows:

Demolition	$3,400.00
Title Search	$ 75.00
Inspection Costs	$ 110.80
Board Hearing Costs	$ 1171.78
Notice & Order Costs	$ 539.68

Postage Costs	$ 23.20
Notary Fees	$ 30.00
Notice to Abate Costs	$ 68.04
Certificate of Existence	$ 69.56
Inspection Warrant Costs	$1,054.02
TOTAL COSTS	$6,542.08

, and

WHEREAS, all costs and expenses incurred by the City for the inspection, Notice and Order, Board of Building Appeals Hearing, Decision and Order, Inspection Warrant, demolition, and Confirmation of Cost Hearing before the City Council for 1315 D Street, Modesto, California are allowed by Chapter 9 of the Dangerous Buildings Code of the City of Modesto Sections 901, 902, 903, and 904 for reimbursement, and

WHEREAS, these sections require a hearing for the confirmation of costs be presented before the City Council for consideration, and

WHEREAS, a duly noticed public hearing was held by the Council on September 4, 2007 at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing all interested persons were given the opportunity to be heard relative to the proposal of accepting the report of the Public Works Director regarding the demolition and abatement of the dangerous building owned by Mr. Verlon Starkey, at 1315 D Street, located on property commonly known as 401 14th Street, declaring the demolition and abatement complete, accepting the expenses incurred, authorizing the assessment of charges in the amount of $6,542.08, and assessing the charge to Mr. Starkey as a personal obligation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the report of the Public Works Director regarding the demolition and abatement of the dangerous building owned by Mr. Verlon Starkey, at 1315 D Street, located on property commonly known as 401 14th Street.

BE IT FURTHER RESOLVED by the Council that it hereby declares the demolition and abatement to be complete.

BE IT FURTHER RESOLVED by the Council that it hereby accepts the expenses incurred.

BE IT FURTHER RESOLVED by Council that it hereby authorizes the assessment of charges in the amount of $6,542.08, and assess the charge to Mr. Starkey as a personal obligation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST:

Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____

SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-533

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE HACIENDA DEL SOL PHASE I SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS.

WHEREAS, Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust, and Centex Homes, a Nevada General Partnership, are the subdivider of the HACIENDA DEL SOL PHASE I SUBDIVISION ("SUBDIVISION"), and

WHEREAS, Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust, and Centex Homes, a Nevada General Partnership, have filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $900,268.00 and $450,134.00, respectively, and

WHEREAS, Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust, and Centex Homes, a Nevada General Partnership, have filed a warranty bond in the amount of $90,026.80 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in the SUBDIVISION as complete, authorize the City Clerk to file a Notice of Completion, and to release the securities upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $900,268.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $450,134.00 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $90,026.80 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-534

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE PLAZA SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS.

WHEREAS, Centex Homes, a Nevada General Partnership, is the subdivider of THE PLAZA SUBDIVISION ("SUBDIVISION"), and

WHEREAS, Centex Homes, a Nevada General Partnership, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $1,372,469.00 and $686,234.50, respectively, and

WHEREAS, Centex Homes, a Nevada General Partnership, has filed a warranty bond in the amount of $137,246.90 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in the SUBDIVISION as complete, and authorize the City Clerk to file a Notice of Completion and to release the securities upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $1,372,469.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $686,234.50 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $137,246.90 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-535

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 budget have been adjusted as shown on the Budget Request form(s).

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the11th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, O'Bryant

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-536

A RESOLUTION AUTHORIZING ACCEPTING THE 2007 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) WITH THE U.S. DEPARTMENT OF JUSTICE, IN THE AMOUNT OF $142,462, FOR THE PROCUREMENT AND IMPLEMENTATION OF A REGIONAL CRIMINAL JUSTICE INFORMATION SHARING SYSTEM, IN PARTNERSHIP WITH THE STANISLAUS COUNTY SHERIFF'S OFFICE AND OTHER CRIMINAL JUSTICE AGENCIES IN STANISLAUS COUNTY, AND AUTHORIZING THE POLICE CHIEF TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, ON June 26, 2007 the City Council, by Resolution No. 2007-372, authorized submittal of an application to the U.S. Department of Justice for the 2007 Edward Byrne Memorial Justice Assistance Grant (JAG), and

WHEREAS, on August 21, 2007, the U.S. Department of Justice (DOJ) notified the Modesto Police Department that it was awarded the 2007 Edward Byrne Memorial Justice Assistance Grant, for the procurement and implementation of a Regional Criminal Justice Information Sharing System, in partnership with the Stanislaus County Sheriff's Office and other criminal justice agencies in Stanislaus County, and

WHEREAS, funds provided by the JAG Grant will allow the Modesto Police Department the technology to not only share criminal justice information between agencies in Stanislaus County but it will eventually link to other regional criminal justice information sharing systems creating a Criminal Justice Information Network spanning up and down the west coast and across the country, linking regional, state, and federal agencies, and

WHEREAS, the total grant will be $142,462, and

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

WHEREAS, a separate CIP account will be set up in the Information Technology Fund, within the CAD/RMS/COPLINK "Suite" of accounts as follows:

Appropriate:

To:	7130-070-MXXX-3508	$142,462	2007 Edward Byrne Justice Assistance Grant

Revenue:

To:	7130-070-MXXX-6040	$142,462	Grant Revenue

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes accepting the 2007 Edward Byrne Memorial Justice Assistance Grant (JAG) with the U.S. Department of Justice, in the amount of $142,462, for the procurement and implementation of a Regional Criminal Justice Information Sharing System, in parternship with the Stanislaus County Sheriff's Office and other criminal justice agencies in Stanislaus County,

BE IT FURTHER RESOLVED that the Police Chief is hereby authorized to execute the necessary documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-537

Print

A RESOLUTION AUTHORIZING ACCEPTING THE 2007 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) WITH THE U.S. DEPARTMENT OF JUSTICE, IN THE AMOUNT OF $142,462, FOR THE PROCUREMENT AND IMPLEMENTATION OF A REGIONAL CRIMINAL JUSTICE INFORMATION SHARING SYSTEM, IN PARTNERSHIP WITH THE STANISLAUS COUNTY SHERIFF'S OFFICE AND OTHER CRIMINAL JUSTICE AGENCIES IN STANISLAUS COUNTY, AND AUTHORIZING THE POLICE CHIEF TO EXECUTE THE NECESSARY DOCUMENTS.

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WHEREAS, the total grant will be $142,462, and

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

WHEREAS, a separate CIP account will be set up in the Information Technology Fund, within the CAD/RMS/COPLINK "Suite" of accounts as follows:

Appropriate:

To:	7130-070-MXXX-3508	$142,462	2007 Edward Byrne Justice Assistance Grant

Revenue:

To:	7130-070-MXXX-6040	$142,462	Grant Revenue

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes accepting the 2007 Edward Byrne Memorial Justice Assistance Grant (JAG) with the U.S. Department of Justice, in the amount of $142,462, for the procurement and implementation of a Regional Criminal Justice Information Sharing System, in parternship with the Stanislaus County Sheriff's Office and other criminal justice agencies in Stanislaus County,

BE IT FURTHER RESOLVED that the Police Chief is hereby authorized to execute the necessary documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-538

A RESOLUTION APPROVING THE PROJECT, INCLUDING PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "KING KENNEDY MEMORIAL CENTER ROOF REPLACEMENT", ACCEPTING THE LOW BID AND APPROVING A $47,242.00 CONTRACT WITH SKYLINES ROOFING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled "King Kennedy Memorial Center Roof Replacement" and City staff recommends approval by the City Council, and

WHEREAS, the bids received for "King Kennedy Memorial Center Roof Replacement" were opened at 11:00 a.m. on August 14, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $47,242.00 received from Skylines Roofing be accepted as the lowest responsible bid and the contract be awarded to Skylines Roofing,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the project plans and specifications for the project titled "King Kennedy Memorial Center Roof Replacement," and accepts the bid of Skylines Roofing in the amount of $47,242.00, and hereby awards Skylines Roofing the contract titled "King Kennedy Memorial Center Roof Replacement."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-539

A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT TO EXECUTE AN AGREEMENT WITH ALLANA, BUICK, AND BERS FOR AN AMOUNT NOT TO EXCEED $733,700, TO PREPARE PLANS & SPECIFICATIONS, AND PROVIDE CONSTRUCTION PHASE SERVICES TO CORRECT WATER INTRUSION PROBLEMS AND EXTERIOR SIDING DAMAGE TO THE EXISTING MODESTO REGIONAL WATER TREATMENT PLANT AND TERMINAL RESERVOIR/PUMP STATION BUILDINGS

WHEREAS, the City and the Modesto Irrigation District (MID) have been working together for several years planning the Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion project, which will increase its existing annual average production capacity from 30 million gallons per day (mgd) to 60 mgd, and

WHEREAS, this expansion project is now in the early stages of construction and is expected to be completed in late 2009, and

WHEREAS, over the years, MID staff has performed various patchwork repairs on the roofs and sidings of some of the existing buildings at the MRWTP and Terminal Reservoir/Pump Station, and

WHEREAS, in January 2007, MID hired the firm of Allana, Buick, and Bers (ABB), a building waterproofing consulting firm, to conduct waterproofing consultation services related to the water intrusion problem and woodpecker damage to the "Exterior Insulation Finish System" (EIFS) siding, and

WHEREAS, ABB's evaluation concluded that a significant amount of repair work is needed on all of the existing buildings, and

WHEREAS, in general, and based on extensive field investigations and testing, ABB recommends that a "Full EIFS Repair & Full Roof Replacement" occur, and

WHEREAS, this is the Technical Committee's preferred option and recommended action because it is a long-term comprehensive fix that will eliminate the problems, and

WHEREAS, the scope of work includes the following major elements: 1) Remove and replace gutters, downspouts, and sheet metal valley assemblies; 2) Detach, remove and reinstall or replace metal roofing to install proper flashing, waterproofing, and underlayments; 3) Remove and replace EIFS bull nose, sealants and damaged areas, 4) Repair sealants at skylights and expansion joints; 5) Reshape raised 90-degree panels to deter mud swallow nesting patterns; 6) Refinish all exterior walls when necessary with a thicker and stronger material to reduce woodpecker intrusion problems and reseal each building's exterior, and

WHEREAS, as part of the analysis performed by ABB, three other repair alternatives were considered, however, the "Full EIFS Repair & Full Roof Replacement" was recommended as the optimal solution, and

WHEREAS, due to the complexities associated with this type of design work and ABB's intimate knowledge of the water intrusion problems and EIFS siding damage, the Technical Committee and Policy Committee agreed to sole source this work to ABB, and

WHEREAS, the components of ABB's work will include: 1) Preparing plans and specifications for the building envelopes of the MRWTP and Terminal Reservoir/Pump Station facilities and providing bidding phase services in an amount not to exceed $167,000; 2) Providing construction administrative and project management services, which includes full-time construction monitoring services (including an allowance of $35,000 for air sampling and hazardous materials abatement, if needed), in an amount not

to exceed $500,000; and 3) Including, due to unknown conditions, a 10% MID-controlled contingency for all services, in an amount not to exceed $66,700, for a total cost of all services not to exceed $733,700, and

WHEREAS, City staff believes that the costs for these services are reasonable and competitive as ABB's fees, which include full-time inspection, are projected to be between 11% and 13.5% of the cost of construction, ABB's intimate knowledge of the water intrusion problems and EIFS siding damage, and EIFS design and repair is a specialized service and requires the retention of a firm, such as ABB, with this specialized forensic and design experience, and

WHEREAS, as with many other aspects of this project, MID will initially front the costs for the items described in this report (i.e. design, construction management, construction, etc.), but will be reimbursed by the City pursuant to the terms and conditions of the Amended and Restated Treatment and Delivery Agreement, and

WHEREAS, per the Amended and Restated Treatment and Delivery Agreement approved by the Council of the City of Modesto on October 11, 2005, by Resolution No. 2005-516, MID will initially front the costs for the items described in the agenda report, but they will be reimbursed from the City for such costs once the project's financing structure is in place,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute an Agreement with Allana, Buick, and Bers for an amount not to exceed $733,700, to prepare plans & specifications, and provide Construction Phase Services to correct water intrusion

problems and exterior siding damage to the existing Modesto Regional Water Treatment Plant and Terminal Reservoir/Pump Station buildings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-540

A RESOLUTION ACCEPTING THE KAISER REMOTE OFF-SITE IMPROVEMENTS PROJECT, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION

WHEREAS, the City Council, by Ordinance No. 3357-C.S., which became effective on October 8, 2004, approved 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 (DEVELOPMENT), and

WHEREAS, as a condition of said Development Agreement, Kaiser Foundation Hospitals (DEVELOPER) was to construct all identified Public Improvements located within the DEVELOPMENT and certain Remote Off-Site Improvements (IMPROVEMENTS) identified within the Development Agreement, and

WHEREAS, the Construction Administration Office, in a memorandum to staff, indicates that said IMPROVEMENTS have been completed to the satisfaction of the Public Works Department, and

WHEREAS, DEVELOPER has provided a warranty for said IMPROVEMENTS, and

WHEREAS, the Construction Administration Office has indicated that it would be in order for the City Council to accept said IMPROVEMENTS as complete, and authorize the City Clerk to record a Notice of Completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Kaiser Remote Off-Site Improvements Project is hereby accepted,

BE IT FURTHER RESOLVED that the City Clerk, or her designee, is hereby authorized to file a Notice of Completion.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-541

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH HARRIS & ASSOCIATES FOR ON-CALL CONSTRUCTION MANAGEMENT SERVICES FOR VARIOUS CAPITAL IMPROVEMENT BUILDING PROJECTS AND A MULTI-YEAR OPERATING ORGANIZATION PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $199,160, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City has ongoing construction and future building projects for new construction, renovation, and rehabilitation, and

WHEREAS, the growth in the Capital Improvement Program has hindered construction management and inspection of construction projects as well as encroachment permits and subdivisions, and

WHEREAS, due to two current construction inspector vacancies these services are needed to support various Capital Improvement Projects (CIPs) in the City's Capital Improvement Program and a Multi-year Operating Organization Project, and

WHEREAS, various Capital Improvement Building Projects and a Multi-year Operating Organization Project have been grouped together to provide economy of scale and obtain a lower cost for services, and

WHEREAS, Harris & Associates is well qualified to perform On-Call Construction Management Support Services and has performed such services for various public agencies several times in the past and has demonstrated satisfactory services to the City on past projects, and

WHEREAS, the Public Works Department has insufficient staffing at this time to perform such services, and

WHEREAS, current staffing will not provide for timely in-house construction management, and

WHEREAS, on August 21, 2007, the City Manager approved a one-month Agreement in the amount of $29,600 with Harris & Associates for On-Call Construction Management Services for the City of Modesto's various CIP Projects to provide a full-time inspector during the gap period of taking this larger agreement to Council, and

WHEREAS, in August of 2007, Harris & Associates submitted a separate fee and scope for On-Call Construction Management Services in the amount of $199,160 to continue services, and

WHEREAS, the consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order, and

WHEREAS, the consultant will perform no services until Capital Improvement Services (CIS) management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to the consultant prior to commencement of services, and

WHEREAS, to fund consultant work for specific task orders, funds will be budgeted and encumbered against each project specific CIP account, or multi-year operating organization, as the project is assigned, and

WHEREAS, consultant invoices are to be paid from each project specific CIP, or multi-year operating organization on a task order basis received and verified by CIS staff, and

WHEREAS, a Consultant Agreement with Harris & Associates for On-Call Construction Management Services in the not-to-exceed amount of $199,160 for various Capital Improvement Projects and a multi-year operating organization project is necessary in order to complete the following projects: 1) Neighborhood Center Marshall

Park; 2) King Kennedy Memorial Center/Auditorium Phase II; 3) Water Quality Control Lab Remodel; and 4) King Kennedy Memorial Center Roof Replacement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Consultant Agreement with Harris & Associates for On-Call Construction Management Services for various Capital Improvement building Projects and a Multi-year Operating Organization Project, in the not-to-exceed amount of $199,160.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007–542

A RESOLUTION DIRECTING THE SINGLE DEPARTMENT STRUCTURE BE RETAINED WITH AN INTERNAL REORGANIZATION ONLY OF THE PUBLIC WORKS DEPARTMENT AS AN INTERMEDIATE STEP TOWARD CREATING TWO DEPARTMENTS, WITH THE CONDITION THAT ANY STEPS TOWARDS CREATING TWO DEPARTMENTS BE RETURNED TO COUNCIL FOR CONSIDERATION.

WHEREAS, the policy issue related to reorganization of the Public Works Department (PW) was first presented to the Finance Committee in February 2007, and

WHEREAS, since that time the reorganization has been discussed with the Finance Committee on March 29, April 23, and May 16, 2007 during the budget hearings, and

WHEREAS, at the final adoption of the 2007-08 budget on May 22, 2007, Council directed staff to implement an initial phase of the Public Works Reorganization (Reorganization) by transferring all land development functions and personnel to the Community and Economic Development Department effective July 1, 2007, and

WHEREAS, the proposal presented to Council on September 11, 2007, was to obtain approval for the Reorganization, to be implemented in Phase II and Phase III as listed below:

Phase II – Preparation and splitting PW into a Municipal Utilities Department (MUD and a Transportation Department (TD) – begin with budget preparation cycle for FY 2008-09 in January 2008 to develop appropriate budget structures and identify costs in various fund proformas, addition of three new positions (department director, deputy director, and executive secretary), and begin the recruitment of new Department Director

Phase III – Creation of new departments – new departments to be established July 1, 2008, providing new directors opportunity to evaluate organizational structures and make recommendations for additional resources as part of FY 2008-09 supplemental budget cycle

, and

WHEREAS, typically small and medium-size California cities are organized as the current PW, and

WHEREAS, when populations increase beyond 100,000 it becomes difficult to effectively serve the community under this model, and

WHEREAS, larger cities generally divide their public works function between two or more departments to improve service delivery and efficiency, and

WHEREAS, Fresno, Stockton and Sacramento cities are examples of cities with the two or more department structures for public works functions, and

WHEREAS, the formation of MUD moves water, wastewater, and Stormwater utilities into one department and focuses on planning, development, and management of the City's water resources which enhances the community's quality of life, preserves water rights, facilitates economic development, and protects the environment, and

WHEREAS, the formation of TD strengthens the management and leadership direction of the City's transportation-based divisions (Airport, Transit, Traffic Engineer, Fleet Services, Urban Forestry, and Street Maintenance) and provides for more uniform management and compliance with funding and regulatory requirements needed to meet the goal of delivering safe and efficient transportation systems, and

WHEREAS, PW Reorganization is based on process that mirrors the modified Zero-Based Budget process and is consistent with recent organizational studies conducted for the City (Citygate Associates, Management Partners-Organizational Health Assessment), and

WHEREAS, the funding of $246,273 for the additional positions necessary (transportation director, deputy director, and executive secretary) are available through additional funding through various funding sources, including $50,242 from the General Fund, and

WHEREAS, as an alternative measure, staff proposed retaining the single department structure with an internal reorganization as a intermediate step towards creating two departments, and

WHEREAS, under this alternative, the utilities and transportation functions would be clearly separated into two divisions within Public Works and the engineering functions for each would be divided accordingly, and

WHEREAS, this intermediate step would create the necessary budgeting and fund structures for a future splitting of the Public Work Department, and

WHEREAS, an additional deputy director of Public Works would be needed to implement this intermediate step at a cost of $147,716 (salary/benefits), and

WHEREAS, funding for this additional deputy director position is available in the Transit, Fleet, and Airport Funds, and

WHEREAS, the Finance Committee discussed this item at its March 29, April 23, and May 16, 2007 meetings without forwarding a recommendation to Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby directs that the single department structure be retained with an internal reorganization only of the Public Works Department as an intermediate step towards creating two departments, with the condition that any steps towards creating two departments be returned to Council for consideration.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007 by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carrier and the resolution adopted by the following vote:

AYES:	Councilmember:	Dunbar, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmember:	Hawn, Keating
ABSENT:	Councilmember:	O'Bryant

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-543

A RESOLUTION GRANTING THE APPEAL OF THE PROPERTY OWNERS RESIDING ON SCENIC COURT AND MR. & MRS. NAZI AT 905 FONTANA COURT TO A PLANNING COMMISSION DECISION APPROVING A PLOT PLAN AND VESTING TENTATIVE PARCEL MAP TO ALLOW THE CREATION OF FOUR PARCELS, INCLUDING TWO FLAG LOTS, FOR THE PROPERTY LOCATED AT 2929 SCENIC DRIVE

WHEREAS, on November 21, 2006, the secretary to the Planning Commission received an application filed by William Machado Construction, Inc. for a plot plan and vesting tentative parcel map in the R-1, Single-Family Residential Zone, to divide a 1.01 acre parcel located at 2929 Scenic Drive in to four parcels, and

WHEREAS, a public hearing was held by the Planning Commission on July 2, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary were received and considered, and

WHEREAS, the Planning Commission found and determined that the plot plan and vesting tentative parcel map as sought by William A. Machado Construction, Inc., to divide a 1.01 acre parcel into four separate parcels located on the northeast corner of Scenic Drive and Scenic Court was consistent with the General Plan of the City of Modesto, the Subdivision Map Act of the State of California, and the Modesto Municipal Code, and

WHEREAS, an appeal to the Planning Commission's approval of the application of William Machado, Construction, Inc. for a plot plan and vesting tentative parcel map in the R-1, Single-Family Residential Zone, to divide a 1.01 acre parcel into four parcels located at 2929 Scenic Drive was filed with the Office of the City Clerk by letter dated June 16, 2007, from the Property Owners residing on Scenic Court and Mr. and Mrs. Nazi at 905 Fontana Court, and

WHEREAS, said appeal was set for a public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at 5:30 p.m. on September 11, 2007, and

WHEREAS, it takes four votes to either approve or deny a resolution, and

WHEREAS, after said public hearing the Council found and determined that said appeal to the approval of the requested plot plan and vesting tentative parcel map in the R-1, Single-Family Residential Zone, to divide a 1.01 acre parcel into 4 separate parcels, two of which were to be flag lots at 2929 Scenic Drive, should be granted for the following reason:

1. The development would not be compatible with the surrounding neighborhood under Article 5 Section 10-2.501(b), of the Modesto Municipal Code which states that the purpose and intent of the R-1 zone are to: Preserve a high degree of compatibility between adjacent R-1 uses and between R-1 and other types of development.

NOW,THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of the property owners on Scenic Court and Mr. and Mrs. Nazi at 905 Fontana Court to the decision of the Planning Commission approving the application for a plot plan and vesting tentative parcel map in the R-1, Single-Family Residential Zone, to divide a 1.01 acre parcel into four separate parcels at 2929 Scenic Drive, is granted for the reason quoted above, and the decision of the Planning Commission is hereby denied.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
SUSAN ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-544

Print

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): OMNIBUS ZONING CODE TEXT AMENDMENT 2007-1

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, the City proposes to amend certain portions of the text of its Planning and Zoning Code, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2007-15 ("Initial Study") reviewed the proposed Zoning Code Text Amendment to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or

alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on August 20, 2007, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on September 11, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed Omnibus Zoning Code Text Amendment, a copy of which is attached hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project have been incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2007-15

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2007-15

For the proposed:

Omnibus Zoning Code Text Amendment 2007-1

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

May, 2007

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether Omnibus Zoning Code Text Amendment 2006-1 is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Omnibus Zoning Code Text Amendment 2007-1

B. Address or Location: City of Modesto

C. Applicant: City of Modesto

D. City Contact Person: Patrick Kelly

Project Manager: Patrick Kelly
Department: Community & Economic Development Department
Phone Number: (209) 577-5268
E-mail address: pkelly@modestogov.com

E. Current General Plan Designation(s): N/A

F. Current Zoning Classification(s): N/A

G. Surrounding Land Uses: N/A

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

This project consists of a set of minor amendments to Title 10 of the Modesto Municipal Code (the Zoning Code), to implement goals of the Housing Element and accomplish the following:

1. Remove "pyramidal" provisions of the R-2 and R-3 zones, providing for minimum as well as maximum densities in these zones and increasing minimum lot size for newly created lots, and making revisions to height and setback provisions.

2. Rename the Specific Plan Overlay (SP-O) zone to the Specific Pan (S-P) zone and add provisions relating to the process for preparation of Specific Plans.

I. Other Public Agencies Whose Approval is Required:

None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ___ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ___ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Patrick Kelly, Project Manager	Principal Planner	May 30, 2007
	Title	Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	☒	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	☒	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	☒	☐

(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources. ☒ ☐

(5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan. ☒ ☐

(6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR. ☒ ☐

Discussion: N/A

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: .	☒	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(4)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐
(5)	Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

Discussion:

(2) The project is a minor amendment to the Zoning Code. The Zoning Code is implicit in the General Plan and none of the topics of the proposed amendment will alter the Code in such a fashion as to create new environmental issues.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR.

Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 buildout of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

		YES	NO
(1)	The project exceeds the Master EIRs traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the Master EIRs program of mitigation measures.	☐	☒
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒
(4)	Result in inadequate parking capacity.	☐	☒

Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on traffic and transportation issues.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	☒
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	☒
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	☒
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	☒
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	☒

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on air quality issues.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☒
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	☒

Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on noise issues.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the

project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	☒
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	☒
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	☒

Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on agricultural land.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be

conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	☒

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on water supply issues.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction

activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☒

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on wastewater issues.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	☒
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☒

Discussion:

1-3. The project is a minor amendment to the Zoning Code and will have no effect on wildlife or plant habitat.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	☒

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on cultural resources.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	☒
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

1-3. The project is a minor amendment to the Zoning Code and will have no effect on storm water runoff.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	☒
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on flooding and water quality issues.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code

Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

1. The project is a minor amendment to the Zoning Code and will have no effect on parks and open space issues.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	☒

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on schools.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on police services issues.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on fire services issues.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: Since the project would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	☒

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on solid waste issues.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	☒
(3)	The project contains a contaminated site not identified as of March 2003.	☐	☒
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	☒
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	☒

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on hazardous materials issues.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	☒

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on seismic issues.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on seismic issues.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	☒
(3)	The project would physically divide an established community	☐	☒

Discussion:

1-3. The project is a minor amendment to the Zoning Code and will not divide any established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	☒
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	☒
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	☒

Discussion:

1-4. The project is a minor amendment to the Zoning Code and will not affect any aesthetic issues.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1(c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study.

A Mitigated Negative Declaration/EIR shall be prepared for the project and the following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation Measures:

N/A

Air Quality Measures:

N/A

Noise Measures:

N/A

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

N/A

Storm Drainage Measures:

N/A

Flooding and Water Quality Measures:

N/A

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-545

A RESOLUTION APPOINTING A MEMBER OF THE PLANNING COMMISSION TO THE BOARD OF ZONING ADJUSTMENT

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Planning Commission met on September 17, 2007 and recommended appointment of TED BRANDVOLD as its representative to the Board of Zoning Adjustment, in place of Willie "Mac" Daniel.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. TED BRANDVOLD, as representative of the Planning Commission, is hereby appointed to the Board of Zoning Adjustment with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Board of Zoning Adjustment, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-546

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE CANTERBURY ESTATES SUBDIVISION, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS.

WHEREAS, Richmond American Homes of California, a Colorado Corporation, is the subdivider of the CANTERBURY ESTATES SUBDIVISION ("SUBDIVISION"), and

WHEREAS, Richmond American Homes of California, a Colorado Corporation, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $1,055,881 and $527,940.50, respectively, and

WHEREAS, Richmond American Homes of California, a Colorado Corporation, has filed a warranty bond in the amount of $105,588.10 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in the SUBDIVISION as complete, authorize the City Clerk to file a Notice of Completion, and to release the securities upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $1,055,881 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $527,940.50 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $105,588.10 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-547

A RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS FOR THE VILLAGE RANCH UNIT NO. 2 SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS.

WHEREAS, Centex Homes, a Nevada General Partnership, is the subdivider of the VILLAGE RANCH UNIT NO.2 SUBDIVISION ("SUBDIVISION"), and

WHEREAS, Centex Homes, a Nevada General Partnership, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $735,640.80, and $367,820.40, respectively, and

WHEREAS, Centex Homes, a Nevada General Partnership, has filed a warranty bond in the amount of $73,564.08 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the improvements in the SUBDIVISION as complete, and authorize the City Clerk to file a Notice of Completion and to release the securities upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $735,640.80 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amounts of $367,820.40 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $73,564.08 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By SAWood
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-548

Print

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE PURCHASE OF A PARKING CITATION SYSTEM FOR THE FINANCE DEPARTMENT, CUSTOMER SERVICES DIVISION TO T2 SYSTEMS, INC., INDAINAPOLIS, IN, FOR A TOTAL ESTIMATED COST OF $89,103, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, the Finance Department maintains the Parking Citation Processing division within the City in coordination with the Police Department, and

WHEREAS, the Police Department manages ticket issuance and the Finance Department captures the citation information from the electronic hand-held devices, manages and performs data input, ticket adjudication, fines and revenue collection, and

WHEREAS, the City's direction for technology is to obtain an Enterprise Resource Planning (ERP) system, replace various software programs where practical, and strive for all systems to have a common platform for information storage, retrieval and management, and

WHEREAS, staff from the Finance Department, Information Technology Department and the Police Department developed requirements that would identify a system to meet the City's needs as well as provide accurate and accessible information for citizens, and

WHEREAS, a new parking citation system will improve the level of customer service, increase staff efficiency, and utilize new technology, and

WHEREAS, on June 6, 2006, Council approved Resolution No. 2006-333, authorizing the Purchasing Manager to formally issue Request for Proposals (RFP) for the purchase of a parking citation system for the Finance Department, Customer Services Division, and

WHEREAS, on November 1, 2006, the Purchasing Division issued Request for Proposal No. 0607-02 for the purchase of a parking citation system to seven (7) prospective proposers, none of which were local companies, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, on December 12, 2006, RFP's were formally opened in the City Clerk's office. Of the seven (7) prospective proposers, two (2) companies choose to respond, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommends award of proposal and contract to T2 Systems, Inc., Indianapolis, IN, for a total estimated cost of $89,103, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of proposal and contract for the purchase of a parking citation system from T2 Systems, Inc., Indianapolis, IN, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account 0100-120-1234-5401 for the purchase of a parking citation system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the purchase of a parking citation system for the Finance Department, Customer Services Division, to T2 Systems Inc., Indianapolis, IN, for a total estimated annual cost of $89,103.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

RESCINDED

APR - 8 2008

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION No. 2008-213

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-549

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE AND INSTALLATION OF A WALK-IN FREEZER STORAGE UNIT AND WALK-IN COOLER STORAGE UNIT FOR THE POLICE DEPARTMENT, TO DIVERSIFIED CONTRACTING SOLUTIONS, EL DORADO HILLS, CA, FOR AN ESTIMATED TOTAL COST OF $71,464, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, The Modesto Police department uses refrigeration units in the Property and Evidence Facility for the cold storage of biological evidence, and

WHEREAS, currently the department uses one industrial and four household refrigerators, two chests and three up-right freezers to provide cold storage, and

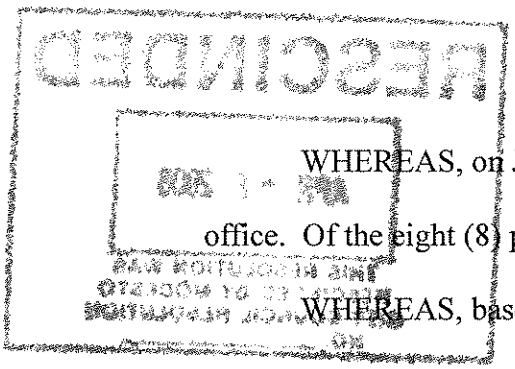
WHEREAS, these units have inefficient storage capabilities, they are costly to operate, and consume more square footage than a walk-in unit, and

WHEREAS, the units are not alarmed and provide no warning if the cooling units malfunction, and

WHEREAS, the refrigeration units that are currently in use are at capacity and no longer an efficient or proper method for storing biological evidence, and

WHEREAS, on April 24, 2007, the City Council approved Resolution No. 2007-235 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of a walk-in freezer/cooler storage container for the Police Department, and

WHEREAS, on May 25, 2007, the Purchasing Division issued Request for Bid No. 0607-56 for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit to eight (8) prospective bidders, seven (7) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and



WHEREAS, on July 3, 2007, RFB's were formally opened in the City Clerk's office. Of the eight (8) prospective bidders, two (2) companies chose to respond, and

WHEREAS, based on being deemed the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit for the Police Department, to Diversified Contracting Solutions, El Dorado Hills, CA, for an estimated total cost of $71,464, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit from Diversified Contracting Solutions, El Dorado Hills, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the account numbers 0400-190-2933-5012 and 0400-190-2923-5016 for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit for the Police Department, to Diversified Contracting Solutions, El Dorado Hills, CA, for an estimated total cost of $71,464.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-550

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF TWO (2) DUMP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO DELTA TRUCK CENTER, MODESTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $223,423.

WHEREAS, on August 2, 2006, the City Council approved Resolution No. 2006-465 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 06/07 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, one (1) dump truck for Streets Maintenance was included in the FY 06/07 new vehicles and heavy equipment list authorized by the City Council, and

WHEREAS, on January 2, 2007, the City Council approved Resolution No. 2007-036 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of one (1) dump truck for the Secondary Treatment Plant , and

WHEREAS, on May 14, 2007, the Purchasing Division issued RFB No. 0607-38 for the purchase of two (2) dump trucks to twenty-two (22) prospective bidders, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on June 19, 2007, RFB's were formally opened in the City Clerk's office. Of the twenty-two (22) prospective bidders, one company chose to respond. The bidder provided a responsive and responsible bid, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of two (2) dump trucks to Delta Truck Center, Modesto, CA, for the total estimated cost of $223,423, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of two (2) dump trucks for the Public Works Department, Fleet Services Division conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following accounts for the purchase of two (2) dump trucks for FY 07/08, Account numbers 7210-480-5814-5744 and 7210-480-5814-5744,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of two (2) dump trucks to Delta Truck Center, Modesto, CA, for a total estimated cost of $223,423.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a Purchase Order for a total estimated cost of $223,423.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-551

A RESOLUTION APPROVING A POLICY FOR INVESTMENT OF PUBLIC FUNDS

WHEREAS, pursuant to Section 2-3.401 of the Modesto Municipal Code, it is the function of the City of Modesto ("City") Finance Department to deposit and invest funds in accordance with sound treasury management, and

WHEREAS, the City is also governed by Sections 53600 et seq. of the California Government Code, which requires that local agencies annually adopt an investment policy, and

WHEREAS, the City Council approved a contract on February 3, 2004 with Public Financial Management (PFM), an investment services advisor, to provide investment management, research and supervision of the City's Managed Funds, and

WHEREAS, a revision has been made to the policy and a copy of the policy is marked **Attachment "A",** attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the Policy for Investment of Public Funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: O'Bryant

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSAN ALCALA WOOD, City Attorney

CITY of MODESTO	CITY COUNCIL POLICY		**POLICY NO.: 1.019**
SUBJECT: INVESTMENT POLICY			

PURPOSE

The purpose of this document is to identify various policies and procedures that enhance opportunities for a prudent and systematic investment policy and to organize and formalize investment-related activities.

BACKGROUND

Under Section 2-3.401 of the Municipal Code, it is the function of the Finance Department to deposit and invest funds in accordance with sound treasury management. As a charter city, Modesto operates its pooled idle cash investment under the "prudent investor" rule which states that:

> "When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with the care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency."

The City is also governed by Sections 53600 et seq. of the California Government Code. This affords the City a broad spectrum of investment opportunities, so long as the investment is deemed prudent and allowable under current legislation of the State of California and the charter of the City of Modesto.

On an annual basis, the Finance Director/Treasurer will render to the City Council the statement of investment policy. The report will be considered, with any changes, by the City Council at a public meeting.

INVESTMENT REPORT

The Finance Director/Treasurer shall provide the City Council with a monthly report of investment transactions. In addition, the Finance Director/Treasurer shall render a quarterly report to the City Council, City Manager and the internal auditor within 30 days following the end of the quarter. The report shall contain the following:

1. The type of investment, issuer, purchase date, date of maturity, credit rating, overall portfolio yield based on cost, total par and dollar amount invested on all securities, investments and monies.

2. The weighted average maturity of the portfolio.

3. A description of any funds, investments or programs that are under management of contracted parties, including lending programs. Funds and investments held by contracted parties shall be reported at market value and the source of valuation shall be reported.

4. The market value as of the date of the report, and the source of the valuation.

5. A statement of compliance with the investment policy or manner in which the portfolio is not in compliance.

6. A statement denoting the City's ability to meet its expenditure requirements for the next six months or provide an explanation as to why sufficient money shall, or may, not be available.

INVESTMENT CRITERIA

Public funds are invested in the following manner in order of priority:

1. **Safety of Principal**
   The duty of the Finance Director/Treasurer is to protect, preserve and maintain cash and investments on behalf of the citizens of the community. To guard against loss of principal, only prudent and safe investments will be considered.

2. **Liquidity**
   The receipt of revenues and maturities of investments should be scheduled so that adequate cash will be available to meet disbursements. An adequate portion of the portfolio should be maintained in liquid short-term instruments which can be readily converted to cash if necessary.

3. **Yield**
   Yield is the potential dollar earnings, or rate of return, an investment can provide. Yield becomes a consideration only after the basic requirements of safety and liquidity have been met.

SAFEKEEPING AND CUSTODY

All security transactions entered into by the City shall be conducted on a delivery-versus payment basis. Securities will be held by third party custodian designated by the Finance Director/Treasurer and evidenced by safekeeping receipts.

The only exception to the foregoing are Local Agency Investment Pools, Certificates of Deposit, and money market funds since the purchased securities are not deliverable. In all cases, purchased securities shall be held in the City's name.

PERFORMANCE STANDARDS

The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs. The City will measure the portfolio's performance against a market benchmark that is commensurate with the City's investment risk constraints and the cash flow characteristics of the portfolio.

AUTHORIZED INVESTMENTS

Commencing with Section 53601 of Article 1, Chapter 4 of the Government Code of the State of California, surplus money may be invested in the following:

A. City of Modesto bonds. Bonds issued by the City.

B. U.S. Treasury securities. United States Treasury notes, bonds, bills or certificates of indebtedness or those for which the faith and credit of the United States are pledged for the principal and interest.

C. State of California securities. Registered State of California warrants, treasury notes or bonds, provided that the securities are rated AAA by a nationally recognized statistical rating agency

D. California municipal securities. Bonds, notes, warrants or other evidence of indebtedness of any local agency within California, provided that the securities are rated AAA by a nationally recognized statistical rating agency

E. Federal Agency securities. Obligations issued by a federal agency or United States government-sponsored enterprise.

F. Bankers' Acceptances. Bankers' Acceptances issued by domestic or foreign banks, which are eligible for purchase by the Federal Reserve System, the short-term paper of which is rated in the highest category by a nationally recognized statistical rating agency.

Purchases of Bankers' Acceptances may not exceed 180 days maturity or 40 percent of the City's surplus money. The maximum amount permitted to be invested in the Banker's Acceptances of any one commercial bank is the greater of 10 percent of the City's surplus funds or $1 million.

G. Commercial Paper. Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization. The entity that, issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):

(1) The entity meets the following criteria: (a) is organized and operating within the United States as a general corporation. (b) Has total assets in excess of $500 million. (c) Has debt other than commercial paper, if any, that is rated "A" or higher by a nationally

recognized statistical-rating organization (NRSRO).

(2) The entity meets the following criteria: (a) is organized within the United States as a special purpose corporation, trust, or limited liability company. (b) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond.

Investments in commercial paper are limited to a maximum of 25% of the portfolio. Purchases shall not exceed 10 percent of the outstanding paper of the issuing corporation. The maximum investment maturity is restricted to 270 days.

H. Certificates of Deposit. FDIC insured or fully collateralized time certificates of deposit in financial institutions located in California. Eligible investments are restricted to those issuing institutions that have been in business at least five years. The maximum term for deposits shall be one year. Investments in certificates of deposit are further limited to 20% of surplus funds. All time deposits must be collateralized in accordance with California Government Code section 53561. The City, at its discretion, may waive the collateralization requirements for any portion of the deposit that is covered by federal insurance.

I. Negotiable Certificates of Deposit. Negotiable certificates of deposit issued by a nationally- or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank; provided that the senior debt obligations of the issuing institution are rated "AA" or better by Moody's or Standard & Poor's. Investments in negotiable certificates of deposit are limited to 30 percent of the portfolio.

J. Repurchase Agreements. Repurchase Agreements used solely as short-term investments not to exceed 90 days.

The following collateral restrictions will be observed: Only U.S. Treasury securities or Federal Agency securities as described in 1 and 2 will be acceptable collateral. All securities underlying Repurchase Agreements must be delivered to the City's custodian bank versus payment or be handled under a tri-party repurchase agreement. The total of all collateral for each Repurchase Agreement must equal or exceed, on the basis of market value plus accrued interest, 102 percent of the total dollar value of the money invested by the City for the term of the investment. For any Repurchase Agreement with a term of more than one day, the value of the underlying securities must be reviewed on a regular basis.

Market value must be calculated each time there is a substitution of collateral.

The City or its trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to Repurchase Agreement.

The City may enter into Repurchase Agreements with (1) primary dealers in U.S. Government securities who are eligible to transact business with, and who report to, the Federal Reserve Bank of New York, and (2) California and non-California banking

institutions having assets in excess of $1 billion and in the highest short-term rating category as provided by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

The City will have specific written agreements with each firm with which it enters into Repurchase Agreements.

K. Reverse Repurchase Agreements. The City may invest in reverse repurchase agreements only with "primary dealers" with which the City has entered into a master repurchase agreement contract. The City may invest in reverse repurchase agreements with the following conditions: The City may only use reverse repurchase agreements to (1) cover a temporary cash shortage, or (2) augment earnings. Reverse repurchase agreements may not be used to leverage the portfolio.

In addition, if a reverse repurchase agreement is authorized, it may be utilized only if the security to be sold on reverse repurchase agreement has been owned and fully paid for by the City for a minimum of 30 days prior to the sale; the total of all reverse repurchase agreements on investments owned by the City does not exceed 20% of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of the security using a reverse repurchase agreement and the final maturity date of the same security. The proceeds of the reverse repurchase agreement may not be invested in securities whose maturity exceeds the term of the Reverse Repurchase Agreement.

L. Medium-term corporate notes . Medium-term corporate notes defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the U.S. or any state and operating within the U.S. Medium-term notes shall be rated in a rating category "AA-" or its equivalent or better by a nationally recognized rating service. Purchase of medium-term corporate notes may not exceed 30 percent of the City's investment portfolio.

M. Money market funds. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (money market funds).

N. State of California Local Agency Investment Fund (LAIF).

O. Mortgage and asset-backed securities. Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable-backed bond that has been issued by a Federal Agency and has a maximum of five years maturity.

MAXIMUM MATURITY

Investment maturities shall be based on a review of cash flow forecasts. Maturities will be scheduled so as to permit the City to meet all projected obligations.

Maximum maturity of an authorized investment is limited to five years.

Proceeds of sales or funds set aside for the repayment of any notes (e.g., Tax and Revenue Anticipation Notes) shall not be invested for a term that exceeds the term of the notes.

INELIGIBLE INVESTMENTS

Any security type or structure not specifically approved by this policy is hereby specifically prohibited. Security types which are thereby prohibited include, but are not limited to,

Investment in inverse floaters, range notes, or interest only strips that are derived from a pool of mortgages is prohibited.

Investment in any security that could result in a zero interest accrual if held to maturity is prohibited.

RESTRICTIONS SET BY THE FINANCE DIRECTOR/TREASURER

A. Prior approval of the Finance Director/Treasurer is required for the following transactions, unless the City utilizes the services of an investment advisor registered with the Securities and Exchange Commission in a fiduciary relationship as outlined in this policy.

Sale of securities
Swaps and trades
Purchase of collateralized mortgage obligations (CMO)
Purchase of mortgage-backed obligations
Purchase of corporate notes
Purchase transaction in excess of $3 million

B. The following investments are not deemed appropriate for the City and will not be utilized:

Futures and options
Small Business Administration notes

AUTHORIZED INVESTMENT PERSONNEL

Pursuant to the Government Code, the City Council delegates the authority to invest or to reinvest funds, or to sell or exchange securities so purchased, to the Finance Director/Treasurer for a one-year period. The Finance Director/Treasurer is charged with the responsibility for carrying out the policies of the City Council and shall assume full responsibility for investment transactions until the delegation of authority is revoked or expires.

Idle cash management and investment transactions are the responsibility of the Finance Department, which is under the control of the Finance Director/Treasurer. The Finance

Director/Treasurer may designate an individual(s) ["Designee"] to be responsible for the daily management of the City's portfolio of treasury investments. The Designee may also be directed to monitor and forecast the City's cash flows, and prepare periodic investment reports that are submitted to the City Council. The Accounting Division of the Finance Department monitors all treasury transactions and prepares accounting records of all investment transactions as to type of investment, amount, yield, and maturity. No other person has authority to make investment transactions without the written authority of the Finance Director/Treasurer. Pursuant to Government Code chapter 53600, all persons investing monies are trustees and therefore fiduciaries subject to the prudent investor standard. Financial market security transactions will be executed by delivery versus payment and the securities will be held by a third party custodian.

Subject to required procurement procedures, the City may engage the support services of outside professionals in regard to its financial program, so long as it can be demonstrated or anticipated that these services produce a net financial advantage or necessary financial protection of the City's resources.

POLICY REVIEW

The investment policy shall be adopted by resolution of the City Council on, at minimum, an annual basis. This investment policy shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity and yield, and its relevance to current law and financial and economic trends. Any amendments to the policy shall be forwarded to City Council for approval.

This policy and the internal controls related to the investment of City funds will be reviewed by the City's independent external auditors as part of their annual audit of the City's financial statements.

APPENDIX A - GLOSSARY

Bankers Acceptances (BAs)
Bankers Acceptance is a time bill of exchange drawn on and accepted by a commercial bank to[1] finance the exchange of goods. When a bank "accepts" such a bill, the time draft becomes, in effect, a predated certified check payable to the bearer at some future specified date. Little risk is involved for the investor because the commercial bank assumes primary liability once the draft is accepted.

Certificates of Deposit (CDS)
A certificate of deposit is issued against funds deposited in a commercial bank for a definite period of time and earning a specified rate of return. They are issued in two forms, negotiable and non-negotiable:

A negotiable certificate of deposit may be sold by one holder to another prior to maturity. This is possible because the issuing bank agrees to pay the amount of the deposit, plus earned interest, to the Bearer of the certificate at maturity.

A non-negotiable certificate of deposit is collateralized and is not a money market instrument since it cannot be traded in the secondary market. It is issued on a fixed maturity basis and often pays a higher interest rate than is permissible on other savings or time deposit accounts.

Collateralized Mortgage Obligation (CMO)
A CMO is a pool of mortgages sold as a single investment with interest paid monthly, quarterly, or semi-annually. Mortgage securities pay a higher rate than U.S. Treasury securities due to risk of prepayment and default.

Commercial Paper (CP)
This is a short-term promissory note issued by a corporation to raise working capital. The interest rates tend to be higher than other investments of similar liquidity.

Derivatives
A financial instrument with a value derived from the value of one or more underlying assets or indexes of asset values. The term "derivative products" refers to instruments or features such as collateralized mortgage obligations (CMOs), interest-only (IOs) and principal-only (POs), forwards, futures, currency and interest rate swaps, options, floaters/inverse floaters, and caps/floors/collars.

Federal Agency Securities
Certain agencies created by Congress and sponsored by the federal government issue debt that is considered to be of prime quality and have a very high standing in the bond market. The major federal agencies are described as follows:

Federal National Mortgage Association (FNMA, "Fannie Mae") provides funds to the mortgage market primarily by purchasing loans from local lenders.

Federal Home Loan Mortgage Corporation (FHLMC, "Freddie Mac") purchases conventional mortgages and sells mortgage-backed securities.

Student Loan Marketing Association (SLMA, "Sallie Mae") facilitates that flow of private capital into various federally-guaranteed student loan programs maintained through banks, S&Ls, educational institutions and other participating lenders.

Federal Farm Credit System (FFCB) sells securities to provide mortgage loans and short-term and intermediate-term credit to farmers, ranchers, and agricultural cooperatives.

Federal Home Loan Bank (FHLB) acts as a credit reserve system for the thrift industry to stabilize the flow of funds to member savings and loan and savings banks.

Futures
Exchange traded contracts specifying a future date of delivery or receipt of a specific product (physical commodity or financial instrument). Futures are used by business as a hedge against unfavorable price changes, and by speculators who hope to profit from such changes.

Local Agency Investment Fund (LAIF)
State of California LAIF is designed to provide a convenient and safe means of investing temporarily idle monies by the State Treasurer. LAJF provides high liquidity and generally pays higher yields than can be realized by individual local agencies (for similar maturities) due to economies of scale.

Medium-Term Notes
Issued by corporations (in the form of secured or unsecured debt) for the purpose of raising working capital and purchasing capital assets.

Options
A right to buy (call) or sell (put) a fixed amount of a given stock at a specified price within a limited period of time. The purchaser hopes that the stock's price will go up (if he bought a call) or down (if he bought a put) by an amount sufficient to provide a profit when he sells the option. If the price is static or moves in the opposite direction, the price paid for the option is lost entirely.

Repurchase Agreement
As authorized in Government Code Section 5360i(1), these investment vehicles are (generally short-term) agreements between the local agency and seller for the purchase of Government securities to be resold at a specific date and for a specific amount.

Reverse Repurchase Agreement
This transaction is the opposite of a repurchase agreement. The dealer buys securities with a contractual agreement to sell them back at a prearranged date. The local agency pays the dealer' interest for the use of the funds. The money "borrowed" on a "reverse repo" can be reinvested in higher yielding instruments.

U.S. Treasury Securities

The highest quality, most liquid debt investments available in the fixed income market-place; unconditionally backed by the "full faith and credit" of the U.S. Government. Treasury bills are short-term instruments (maturity of three months to one year); Treasury notes and bonds are currently issued with maturities of two to ten years.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-552

RESOLUTION DECLARING A 1977 VAN PELT FIRE RESCUE VEHICLE SURPLUS, AND AUTHORIZING THE SALE OF THE FIRE RESCUE VEHICLE BY SEALED BID, CONSIGNMENT, PUBLIC AUCTION OR ONLINE AUCTION

WHEREAS, in the early 1990's a 1977 Van Pelt fire rescue vehicle which had been removed from front line service, was converted to a rescue vehicle for the purpose of carrying specialized rescue equipment, and

WHEREAS, the 1977 Van Pelt rescue vehicle has reached the end of its fire fighting service life with the Modesto Fire Department, and has been replaced with new equipment, and

WHEREAS, the 1977 Van Pelt rescue vehicle will be sold by sealed bid, consignment, public auction or online auction.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the surplus of the 1977 Van Pelt rescue vehicle is hereby approved.

BE IT FURTHER RESOLVED that the sale of the 1977 Van Pelt Rescue Vehicle by sealed bid, consignment, public auction or online auction is also approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-553

Print

A RESOLUTION APPROVING THE HOMEOWNERS DISPLACEMENT POLICY AND PROGRAMS

WHEREAS, current conditions within the local housing market are affecting both homeowners and mobile home owners and rising rent space in mobile home parks is making space rent unaffordable to many financially vulnerable mobile home owners, and

WHEREAS, financially vulnerable homeowners are also being affected by the cooling housing market and are facing foreclosure in record numbers, and

WHEREAS, in order to assist those citizens being affected by these housing conditions, the City of Modesto Parks, Recreation and Neighborhoods Department is preparing to offer programs to help assist the most economically vulnerable citizens acquire affordable housing, and

WHEREAS, the programs will be administered by the HUD Unit of the Recreation and Neighborhood Services Division and will be offered under the Homeowners Displacement Policy, and

WHEREAS, the programs offered under the Homeowners Displacement Policy will consist of the following:

1. **Voluntary Assistance Program** - A financial and technical assistance program for owner-occupied mobile homes to physically relocate the mobile home to a location with affordable space rent for the mobile home owner.

2. **Security Deposit Program for Mobile Home Owners** – A program for homeowners in the form of security deposit assistance. This program offers security deposit for property owners who have lost their homes in foreclosure or other qualifying event and must move to rental housing.

3. **Security Deposit Program for Homeowners** – A program for homeowners in the form of security deposit assistance. This program offers security deposits for property owners who have lost their homes in foreclosure and must move to rental housing, and

WHEREAS, when funded, these programs will be offered to residents of the City of Modesto who meet the income qualifications and are facing an economic event that qualifies them for assistance, such as foreclosure on their home or lien sale of their mobile home, and

WHEREAS, the Citizens Housing and Community Development Committee met on August 24, 2007 and supported the proposed policy and programs, and

WHEREAS, the Housing Rehabilitation Loan Committee met on August 30, and supported the proposed policy and programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Homeowners Displacement Policy and Programs, a copy of which is **attached** hereto and incorporated herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT
Recreation & Neighborhood Services Division

HOMEOWNER DISPLACEMENT POLICY

INTRODUCTION

Current conditions within the local housing market are affecting both homeowners and mobile homes owners. Due to rising rent costs many financially vulnerable mobile home owners are unable to afford their current park space rents. Financially vulnerable Homeowners are also being affected by the cooling housing market and are facing foreclosure in record numbers. In light of the current housing market conditions, the City of Modesto is offering programs to help the most economically vulnerable citizens affected by these housing conditions.

The programs being offered to help these citizens include:

I. **Voluntary Assistance Program** - A financial and technical assistance program for owner-occupied mobile homes to physically move the mobile home to a location with affordable space rent for the mobile home owner.

II. **Security Deposit Program** – A program for mobile home owners in the form of security deposit assistance. This program offers financial assistance for mobile home owners who must have their mobile home moved to a location with affordable rent space.

III. **Security Deposit Program** – A program for homeowners in the form of security deposit assistance. This program offers security deposit for property owners who have lost their homes in foreclosure or other qualifying event and must move to rental housing.

In order to qualify for these programs, household incomes must be 50%* or below of the Median Area Income for Modesto as specified by the Department of Housing and Urban Development (HUD) and the applicant must currently be a resident of the City of Modesto. The income limits are as follows, adjusted for household size:

1	$19,600
2	$22,400
3	$25,200
4	$28,000
5	$30,250
6	$32,500
7	$34,700
8	$36,950

(HUD income limits effective March 2007. Income limits are subject to change as determined by HUD)

Income will be based on current and anticipated income for the household during the next 12 months. Income guidelines from the Department of Housing and Urban Development can be found in 24 CFR Part 5.

** The City of Modesto reserves the right to qualify households for any program offered under the Homeowner Displacement Policy at up to 80% of the median area income as applicable with HUD Regulations. All exceptions to the 50% of the median area income requirement must be approved by the Recreation and Neighborhoods Deputy Director or his/her designee.*

Applicants must have current identification.

The City of Modesto is able to offer these programs through funding from the Department of Housing and Urban Development. Funding for these programs is limited and may run out. Staff is not responsible for notifying applicants if funding is no longer available.

The City of Modesto does not discriminate against persons because of age, sex, marital status, familial status, race, handicap, color, religion, creed, ancestry, or national origin.

The definition of "affordable (space) rent" and "unaffordable (space) rent" in the Homeowners Displacement Policy is only applicable to the programs contained in this policy. The affordable and unaffordable rent definitions contained in this policy do not apply to any other programs or policies offered by the Parks, Recreation and Neighborhoods Department or any other HUD funded program.

A manufactured home is a structure built in a factory and transported as a complete unit. Manufactured homes built after June 15, 1976 bear a HUD label, certifying that the home has been constructed in accordance with the National Manufacturing Housing Construction and Safety Standards (HUD Code). Technically, the term "mobile home" only applies to a factory-built home produced prior to the introduction of the HUD code. For purposes of the Homeowners Displacement Policy all manufactured homes, regardless of manufacture date, will be referred to as a "mobile home".

Other program details are as follows:

I. Voluntary Assistance Program for Mobile Home Owners

A. This program offers financial assistance for mobile home owners to have their mobile home physically moved from a space with unaffordable space rent to a new space with affordable rent. Additional program requirements are:

   i. The applicant must be a registered owner of the mobile home and must have owned the mobile home and occupied the existing space prior to April 1, 2007.

   ii. The existing space rent must be unaffordable to the household and the mobile home owner must be at risk of losing their mobile home because the rent is unaffordable.

Unaffordable is defined as space rent, mortgage, taxes, and insurance combined that is more than 50% of the household's monthly gross income.

iii. The new space rent must be affordable to the household. Affordable space rent is defined as space rent, mortgage, taxes, and insurance combined that is less than 50% of the household's monthly gross income. Applicant must provide proof that new rent space is affordable by providing a budget for staff and proof of monthly obligations.

iv. The owner and park must execute a lease at an affordable rent for not less than a three-year period. Rent increases during the three year term must be in accordance with any mobile home rent stabilization ordinance or memorandum of understandings and long term lease agreements enacted by local governments.

v. Prior to any city expenditures, mobile home owner and mobile home must be approved by new park.

vi. The new space must be located in the city limits of Modesto. If the applicant can document that there is no available affordable space for rent in the City of Modesto, the new space can be located within Stanislaus County.

vii. The new space and park must be in compliance with State of California mobile home regulatory requirements for safe occupancy.

viii. The mobile home must meet housing quality standards after the physical relocation of the mobile home.

B. The financial and technical assistance for the physical relocation of the mobile home will be administered by the HUD program staff of the Parks, Recreation and Neighborhoods Department. The financial assistance is in the form of a grant or loan will be as follows:

i. Grants-Extremely Low Income Households at less than 30% of Median Area Income are eligible for a one-time grant of up to $12,500 upon approval of the Housing Rehabilitation Loan Committee. Amounts exceeding this limit must be approved by City Council.

ii. Loans

a) Very Low Income Households with income between 30% and 50% of Median Area Income are eligible for a deferred payment, 3% simple interest, 20-year loan.

b) In the event the City elects to provide assistance to households with incomes between 50% and 80% of the median income, the assistance will be in the form of a 3%, 15-year loan with monthly-amortized payments required.

c) Additional loan requirements will be:
   i. Owner occupancy will be required or the loan can become due and payable.
   ii. The loan is due on sale or transfer of the mobile home and is not assumable.

iii. Loan amount not to exceed $12,500 upon approval of the Housing Rehabilitation Loan Committee. Amounts exceeding this limit must be approved by City Council.
iv. Mobile home owner must have sufficient fire insurance on mobile home.

iii. Costs that are eligible under the grant or loan include:

a) Cost to physically move the mobile home to a new space

b) Cost of set up of mobile home in new space to meet park, local and state codes

c) Any necessary permits

d) Landscaping required by park

e) Any Lead Based Paint costs to meet HUD mandated regulations for mobile homes built prior to 1978

f) Any other eligible expenses approved by the Recreation and Neighborhoods Deputy Director or his/her designee.

iv. The technical assistance offered by City staff includes writing the specifications of the move and new installation, putting the work out to bid per City and other mandated guidelines, selection of the contractor, contract execution, and monitoring of the work to ensure successful completion of the move.

II. Security Deposit Program for Mobile Home Owners

This program offers financial assistance for mobile home owners who can no longer afford the rent on their space at a mobile home park, and therefore, the mobile home must be moved to a new space with an affordable rent. The program provides a one time financial assistance for the security deposit for the new rent space. Additional program requirements are:

i. The applicant must be a registered owner of the mobile home and must have owned the mobile home and occupied the existing space prior to April 1, 2007.

ii. The existing space rent must be unaffordable to the household and the mobile home owner must be at risk of losing their mobile home because the rent is unaffordable. Unaffordable is defined as space rent, mortgage, taxes, and insurance combined that is more than 50% of the household's monthly gross income.

iii. The new space rent must be affordable to the household. Affordable space rent is defined as space rent, mortgage, taxes, and insurance combined that is less than 50% of the household's monthly gross income. Applicant must provide proof that new rent space is affordable by providing a budget for staff and proof of monthly obligations.

iv. The owner and park must execute a lease at an affordable rent for not less than a three-year period. Rent increases during the three year term must be in accordance with any mobile home rent stabilization ordinance or memorandum of understandings and long term lease agreements enacted by local governments.

v. Prior to any city expenditures, mobile home owner and mobile home must be approved by new park.

vi. The new space must be located in the city limits of Modesto. If the applicant can document that there is no available affordable space for rent in the City of Modesto, the new space can be located within Stanislaus County.

vii. The new space and park must be in compliance with State of California mobile home regulatory requirements for safe occupancy.

viii. The mobile home must meet housing quality standards after the physical relocation of the mobile home.

ix. Financial assistance can be eligible for costs that include:

a) Security deposits required by the new park. The security deposit will be paid to the landlord.

b) Utility hook-ups and deposits

c) Any other eligible expenses approved by the Recreation and Neighborhoods Deputy Director or his/her designee.

III. Security Deposit Program for Homeowners

This program offers financial assistance for homeowners who have lost their homes in foreclosure, sold their home in a short sale, or other qualifying event and therefore must move to affordable rental housing. The program provides a one time financial grant for the security deposit for the new rental housing. Additional program requirements are:

i. The applicant must be the property owner of record on April 1, 2007 and the home must be owner occupied and their principal residence.

ii. The applicant must show proof of a legal qualifying event that does, or will, prevent them from living in the home. Additionally, in instances when the homeowner's foreclosed home is vacant, the homeowner must provide proof that the home has been secured according to the City of Modesto Board-up Standards. The homeowner shall provide the City of Modesto with the contact information for the current caretaker or owner of the property.

iii. The new rent must be affordable to the household. Affordable rent is defined as rent that does not exceed 50% of the household's monthly gross income.

iv. The new rent must be within Fair Market Rent for the unit size in the Modesto area and the unit size should be appropriate to household size.

v. The housing must be located in the city limits of Modesto.

vi. Applicant must supply the City with a copy of the rental agreement for the new unit. The agreement must be a minimum of a one-year lease.

vii. The new housing will be inspected by City staff and must meet Housing Quality Standards as defined by HUD.

viii. The Security Deposit cannot exceed two times the Fair Market Rent for the unit size in the Modesto area.

ix. The Security Deposit will be paid directly to the landlord.

x. Applications will be approved by the Recreation and Neighborhoods Deputy Director or his/her designee

Amended on 1/2/08
By Reso # 2008-014

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-554

A RESOLUTION APPROVING AN APPLICATION FOR $200,000 IN FUNDING FROM THE HABITAT CONSERVATION FUND PROGRAM UNDER THE CALIFORNIA WILDLIFE PROTECTION ACT OF 1990 FOR THE CONSTRUCTION AND INSTALLATION OF 1,550 LINEAL FEET OF PEDESTRIAN TRAIL IN THE TUOLUMNE RIVER REGIONAL PARK, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION

WHEREAS, the people of the State of California have enacted the California Wildlife Protection Act of 1990, which provides funds to the State of California for grants to local agencies to acquire, enhance, restore or develop facilities for public recreation and fish and wildlife habitat protection purposes, and

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the Habitat Conservation Fund ("HCF") Program, setting up necessary procedures governing Project Application under the HCF Program, and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the City of Modesto to certify by resolution the approval of an application before submission of the application to the HCF Program, and

WHEREAS, the City desires to apply for $200,000 in funding under the HCF for the construction and installation of 1,550 lineal feet of pedestrian trail within the Tuolumne River Regional Park, and

WHEREAS, the proposed 1,550 lineal feet of pedestrian trail within the Tuolumne River Regional Park is consistent with the Habitat Conservation Fund Program grant project criteria, and

WHEREAS, the City will enter into a contract with the State of California to complete the Project,

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

1. The City of Modesto approves the filing of an Application for the Habitat Conservation Fund Program, and

2. Certifies that the City has or will have available, prior to commencement of any work on the Project included in this Application, the required match and sufficient funds to complete the Project and

3. Certifies that the City has or will have sufficient funds to operate and maintain the Project, and

4. Certifies that the City has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and

5. Delegates the authority to the City Manager or his designee to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project.

6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Amended on 12/18
By Reso # 2008-015

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-555

A RESOLUTION APPROVING A GRANT APPLICATION FOR $150,000 IN FUNDING FROM THE FEDERAL RECREATIONAL TRAILS PROGRAM, FOR THE CONSTRUCTION AND INSTALLATION OF 2,850 LINEAL FEET OF BIKE/PEDESTRIAN TRAIL WITHIN THE PELANDALE/SNYDER BIKE TRAIL AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS.

WHEREAS, the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" provides funds to the State of California for Grants for federal, state, local and non-profit organizations to acquire, develop and/or maintain motorized and non-motorized trail Projects, and

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing project application under the program, and

WHEREAS, the procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of the application before submission of said application to the State, and

WHEREAS, the City desires to apply for grant funds in the amount of $150,000 from the Recreational Trails Program for 2,850 lineal feet of bike/pedestrian trail within the Pelandale/Snyder Bike Trail, and

WHEREAS, the proposed 2,850 lineal feet of pedestrian trail within the Pelandale/Snyder Bike Trail is consistent with the Recreational Trails Program grant project criteria, and

WHEREAS, the City will enter into a contract with the State of California to complete the Project,

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

1. Approves the filing of a grant application for the Recreational Trails Program, and

2. Certifies that the City has or will have available prior to commencement of any work on the project included in this application, sufficient funds to operate and maintain the project, and

3. Certifies that the City has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide, and

4. Appoints the City Manager or his designee to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project.

5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-556

A RESOLUTION ACCEPTING THE REPORT ON XCLAMATION FEST 2007, AND APPROVING XCLAMATION FEST 2008, HOSTED BY CHRIS RICCI PRESENTS, INC. IN DOWNTOWN MODESTO ON SATURDAY, JULY 19, 2008.

WHEREAS, on April 25, 2000, by Resolution No. 2000-189, the City Council approved a license agreement with Chris Ricci Presents, Inc., to hold an annual Xclamation Fest, and

WHEREAS, the Safety and Communities Committee met on March 5, 2007, and supported approval of the Xclamation Fest 2007 for July 21, 2007, and

WHEREAS, on April 3, 2007, by Resolution No. 2007-217, the City Council approved Xclamation Fest 2007, hosted by Chris Ricci Presents, Inc. in downtown Modesto on Saturday, July 21, 2007, and

WHEREAS, the seventh annual Xclamation Fest was held on Saturday, July 21, 2007, and

WHEREAS, this downtown music and arts festival was successful both financially and for providing a safe, entertaining festival for Modesto residents, and

WHEREAS, the proposed date for the 2008 annual Xclamation Fest is Saturday, July 19, 2008, and

WHEREAS, Mr. Ricci coordinates all Xclamation Fest events with the Modesto Police Department, the Downtown Improvement District, and the Modesto Centre Plaza staff in order to secure approvals and coordination for the event, and

WHEREAS, this event is of financial benefit to the City of Modesto and downtown merchants, and

WHEREAS, at its September 5, 2007, meeting, the Safety and Communities Committee accepted the staff report on Xclamation Fest 2007 and supported Xclamation Fest 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts staff's report on Xclamation Fest 2007, held in Downtown Modesto on Saturday, July 21, 2007.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves Xclamation Fest 2008, to be held in Downtown Modesto on Saturday, July 19, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-557

A RESOLUTION APPROVING A CONTRACT FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE BY THE ASSIGNED MODESTO POLICE DEPARTMENT CANINE HANDLER, OFFICER COX, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID CONTRACT.

WHEREAS, the Police Chief for the City of Modesto, from time to time, officially retires police canines from departmental service, and

WHEREAS, City of Modesto police canine handler, Officer Cox, wishes to purchase and assume possession of his assigned canine, Buddy, upon the dog's official retirement, and

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of City of Modesto police canines by their assigned department handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the contract with Officer Cox for the purchase of his retired police canine, Buddy, in the amount of One Dollar ($1.00) as more fully set forth in the Modesto Police Department Canine Transfer Contract attached hereto as **Exhibit "A"** and incorporated herein by this reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT, made and entered into in the City of Modesto, State of California, this **15th** day of **August, 2007**, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and Jamie Cox, canine handler for the Modesto Police Department, hereinafter referred to as "HANDLER".

Facts:

Canine "Buddy" has been with the Modesto Police Department since July of 2000. "Buddy" has served the city for seven years. "Buddy" was born in April of 1999 and will be nine years old in April of 2008. "Buddy" has had a long and distinguished career as a police narcotic dog. "Buddy" has reached an age where his health has begun to decline and he is slowing down. His ability to continue to do police work at an acceptable level is no longer there and it is my recommendation he be retired from service.

This **AGREEMENT** is made with regard to the following recitals:

A. *HANDLER* wishes to assume ownership and take possession of that certain retired City of Modesto police canine named "Buddy". *HANDLER* was previously the assigned canine handler for "Buddy".

B. *HANDLER* wishes to maintain ownership of the above-referenced dog, and the CITY wishes to divest itself of both ownership and vicarious or direct liability for the subject dog.

C. CITY does hereby agree to relinquish all of its right, title and ownership interest in said dog whatsoever, effective upon *HANDLER's* execution and return of this document and payment of the sum of one and no/100ths dollars ($1.00) to the City of Modesto.

NOW, THEREFORE, in consideration of this AGREEMENT, the parties hereto agree as

follows:

1. *HANDLER* does agree to assume ownership of the Modesto police canine named "Buddy", and to assume any and all risks, including, but not limited to, risk of injury or death to third persons, and to hold CITY, its police department, and its employees and/or agents or volunteers harmless from any and all liability, claims, administrative proceedings or other responsibility whatsoever arising from any injuries or damages that may occur on or after the date ownership of the dog is transferred pursuant to this AGREEMENT. That date is hereby fixed by agreement by and among the parties hereto as being **August 15, 2007.**

2. *HANDLER* further agrees to assume all liability for risks and dangers relating to his/her ownership of the subject police dog on and after the aforementioned date, and to indemnify and hold CITY harmless in the event that any legal or administrative action, whether by claim, demand or otherwise, is made by any person or entity as a consequence of or arising out of any event, act or disturbance involving the subject police dog on or after the date ownership is transferred. These hold harmless provisions shall extend to any direct or vicarious liability arising from any and all losses, liabilities, charges (including reasonable attorney fees and court costs), and any other expenses whatsoever which may arise in any manner after the new owners assumption of ownership on the date identified herein.

3. *HANDLER* must retain ownership of "Buddy" for at least eighteen (18) months prior to any sale of the aforementioned retired police canine.

4. The retired police canine "Buddy" shall revert to CITY should the purchaser, *HANDLER* determine he/she can no longer care for the aforementioned dog within the period of time commencing on the date of this AGREEMENT and ending eighteen (18) months from the date fixed by this AGREEMENT.

5. *HANDLER* acknowledges that he/she has read the foregoing AGREEMENT and understands that it is contractual in nature and understands each of its provisions.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has caused this Agreement to be executed in duplicate by its City Manager and attested by its City Clerk under authority of Resolution No. 07-____ adopted by the City Council of the City of Modesto on the 25th day of September, 2007.

CITY OF MODESTO

_____
GEORGE W. BRITTON, City Manager

NEW OWNER

_____
JAMIE COX, Handler

ATTEST:

By_____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-558

A RESOLUTION AMENDING THE 2007/08 BUDGET, ESTIMATING REVENUE OF $20,010 FROM ASSET FORFEITURES TO POLICE OPERATIONS FOR THE PURCHASE OF THREE POLICE CANINES AND THE ASSOCIATED COSTS FOR THEIR PURCHASE.

WHEREAS, there will be three police canines retired from the Police Department Canine Unit, and

WHEREAS, the Police Department needs to replace these dogs to maintain its canine unit at full capacity, and

WHEREAS, costs for the dogs and their air transport back to Modesto is $20,010, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for this purchase, and

WHEREAS, the Safety and Communities Committee considered this item at its September 5, 2007, meeting and recommended forwarding this item to the full Council for its consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2007/08 Operating Budget is hereby amended as indicated below:

Appropriate:			
To:	0100-190-1961-5000	$20,010	Police Field Operations
Revenue:			
From:	0100-190-1961-7202	$20,010	Seized Forfeitures

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-559

A RESOLUTION APPROVING AND ADOPTING A WATER SUPPLY ASSESSMENT (WSA), PREPARED BY WILLDAN DATED AUGUST 2007, FOR THE PROPOSED WOODGLEN SPECIFIC PLAN PROJECT (PROJECT), DETERMINING THAT AN ASSURED WATER SUPPLY IS AVAILABLE TO MEET THE DEMANDS OF THE PROPOSED WOODGLEN SPECIFIC PLAN PROJECT

WHEREAS, Senate Bill 610 (SB 610) requires water suppliers to conduct Water Supply Assessment (WSA) studies for projects meeting the legislative criteria to determine if a sufficient water supply is available to meet the demands of the proposed Woodglen Specific Plan Project (the "Project"), and requires the governing legislative body to approve and adopt such assessments, and

WHEREAS the proposed Project, located within the Kiernan-Carver Comprehensive Planning District (CPD) bordered by Bangs Avenue on the north, Tully Road on the east, Pelandale Avenue on the south, and Carver Road on the west, is within the City of Modesto's water service area and meets the criteria of requiring a WSA under SB 610 and SB 221, and

WHEREAS, Willdan has completed a WSA for the Project, and Public Works staff has determined that an assured 20-year water supply for the build-out of the Project can be made on the conditions that conjunctive use water management measures are implemented as identified in the Urban Water Management Plan and the WSA, the Modesto Regional Water Treatment Plant Phase 2 Expansion is constructed and future water supplies are secured,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment, prepared by Willdan dated August 2007, for the

proposed Woodglen Specific Plan Project, is hereby approved and adopted, a copy of which is on file with the City Clerk.

BE IT FURTHER RESOLVED that pursuant to the California Water Code Section 10912, the Council hereby finds and determines that an assured water supply is available to meet the demands of the proposed Woodglen Specific Plan Project and that the WSA for the proposed Woodglen Specific Plan Project provides substantial evidence to support this determination.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-560

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "COLLECTION SYSTEM REHABILITATION PROJECT" FROM 10 PERCENT ($62,001.97) TO 11.1 PERCENT ($68,755.03) OF THE ORIGINAL CONTRACT PRICE WITH D.A. WOOD CONSTRUCTION

WHEREAS, on January 9, 2007, by Resolution No. 2007-060, the City Council awarded a $620,019.70 contract to D.A. Wood Construction to construct the "Collection System Rehabilitation 2006" project, and

WHEREAS, the contractor started work on February 26, 2007, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the new sewer pipeline, and

WHEREAS, the cost of the extra work was estimated to be as high as $68,755.03, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $60,001.97,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the project entitled "Collection System Rehabilitation 2006" from 10 percent ($60,001.97) to 11.1 percent ($68,755.03) of the original contract price with D.A. Wood Construction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-561

A RESOLUTION ACCEPTING THE WORK BY ROLFE CONSTRUCTION CO., FOR THE PROJECT TITLED "REPLACE MANHOLES: 9TH/J AND 9TH/G STREETS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $186,749.07

WHEREAS, a report has been filed by the Public Works Director that the project titled "Replace Manholes: 9th/J and 9th/G Streets" has been completed by Rolfe Construction Co., in accordance with the contract agreement dated November 28, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Replace Manholes: 9th/J and 9th/G Streets" is hereby accepted as complete from said contractor, Rolfe Construction Co., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $186,749.07 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-562

Print

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "BLOCK WALL CONSTRUCTION FOR WELL 21 IN MCHENRY VILLAGE PROJECT" FROM $25,000.00 TO $30,000.00 OF THE ORIGINAL CONTRACT PRICE WITH RICHARD TOWNSEND CONSTRUCTION

WHEREAS, on February 14, 2006, by Resolution No. 2006-093, the City Council awarded a $156,165.00 contract to Richard Townsend Construction to construct the "Block Wall Construction for Well 21 in McHenry Village" project, and

WHEREAS, the contractor started work on March 19, 2007, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the new block wall, and

WHEREAS, the cost of the extra work was estimated to be as high as $25,119.94, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $25,000.00,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the project entitled "Block Wall Construction for Well 21 in McHenry Village" from $25,000.00 to $30,000.00 of the original contract price with Richard Townsend Construction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-563

A RESOLUTION AUTHORIZING THE PUBLIC WORKS WATER QUALITY CONTROL DIVISION TO MAKE A SOLE SOURCE PURCHASE OF CASS WORKS SOFTWARE AND IMPLEMENTATION SERVICES FROM RJN GROUP, INC. AT A COST OF $49,620 WITH A CONTINGENCY AMOUNT OF $4,962, FOR A TOTAL COST OF $54,582.

WHEREAS, Water Quality Control (WQC) manages the operations and maintenance of wastewater, stormwater and water distribution assets, and

WHEREAS, the Wastewater Collections Division is currently using CASS WORKS for pump maintenance activities and utilizes OASIS for asset management, and

WHEREAS, WQC is currently using MP2 software for the maintenance management of the treatment facilities and is no longer supported by the City's Information Technology Department (IT) without an upgrade, and

WHEREAS, WQC would like to upgrade the current version of CASS WORKS and transfer all data from the OASIS and MP programs into the new CASS WORKS program, and

WHEREAS, CASS WORKS will also allow WQC to expand its use to other divisions to consolidate wastewater asset management and maintenance activities, and

WHEREAS, utilization of CASS WORKS will bring a single solution to WQC for managing assets, work order processing, and warehouse inventory and simplifies the support services by IT, and

WHEREAS, IT concurs with Public Works that this course of action is the best solution available and recommends RJN Group, Inc. as the sole source for the upgrade and installation of CASS WORKS, and

WHEREAS, funds are budgeted in following accounts for the purchase of CASS WORKS software and implementation services:

Description: CASS WORKS Software And Implementation Services		
Account Number	Department/Division	Budgeted Amount
6210-480-5212-0235	Public Works Dept, Wastewater Collections Div.	$18,767
6210-480-B576-6052	Public Works Dept, Renewal/Replc Sutter TP	$35,815
	TOTAL	**$54,582**

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Water Quality Control Department to make a sole source purchase of CASS WORKS software and implementation services from RJN Group, Inc. at a cost of $49,620 with a contingency amount of $4,962 for a total cost of $54,582.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-564

A RESOLUTION APPROVING AN AMENDMENT TO A LEASE AGREEMENT WITH MODESTO EXECUTIVE AIR CHARTER, DBA SKY TREK AVIATION, THAT ALLOWS A SUSPENSION RETROACTIVELY FROM DECEMBER 31, 2005 TO JULY 1, 2008 OF A 5% SUBLEASE FEE OF GROSS RENTS RECEIVED THAT SKY TREK PAYS TO THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT.

WHEREAS, Sky Trek Aviation currently leases land at the Modesto Airport from the City and then subleases enclosed hangar space to business entities, and

WHEREAS, the master lease between the City and Sky Trek requires Sky Trek to pay the City a surcharge of five percent (5%) of gross revenues realized for these hangar subleases, and

WHEREAS, sublease fee waiver was originally implemented in 2003 by Council Resolution No. 2003-455 to assist Sky Trek's competitive position for hangar rentals during the 'dotcom' bust, and

WHEREAS, in March 2007 Sky Trek requested another extension of the sublease fee waiver, and

WHEREAS, Sky Trek believes sublease fee is unfair because it already pays the City a variety of fees, including rent, property tax, fuel flow fee, and mil tax, and

WHEREAS, as the Airport's sole fixed base operator, Sky Trek is the only tenant authorized to sublease hangar space for the principle purpose of storing aircraft, and

WHEREAS, the Council, by Resolution Nos. 2005-35 and 2006-680, has continued to waive this sublease fee, and

WHEREAS, due to change in personnel at the airport, the amendment approved in 2006, which covered December 31, 2005 through July 1, 2007, was not executed, and

WHEREAS, this action is to retroactively suspend the fee waiver from December 31, 2005 to July 1, 2008 to cover the full period of time the Council authorized the amendment in 2005 and an additional one year to July 1, 2008, and

WHEREAS, the Economic Development Committee, at its August 13, 2007 meeting, recommended the suspension of the sublease fee waiver to be retroactively extended from December 31, 2005, to July 1, 2008,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to a lease agreement with Modesto Executive Air Charter, dba Sky Trek Aviation, that allows a suspension retroactively from December 31, 2005 to July 1, 2008 of a 5% sublease fee of gross rents received that Sky Trek pays to the City.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-565

A RESOLUTION APPROVING THE 2007/2008 FISCAL YEAR ANNUAL ANTICIPATED DBE PARTICIPATION LEVEL (AADPL) GOAL OF 14%, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) RACE-NEUTRAL IMPLEMENTATION AGREEMENT AND PROGRAM PLAN FOR FEDERALLY FUNDED STREET, AIRPORT, AND TRANSIT PROJECTS

WHEREAS, the City of Modesto, in order to receive federal financial assistance from the U.S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans) and as a condition of receiving this assistance, is required to sign the California Department of Transportation's Disadvantaged Business Enterprise (DBE) Race-Neutral Implementation Agreement for federally funded street, airport, and transit projects, and

WHEREAS, the City of Modesto wishes to enter into a Disadvantaged Business Enterprise (DBE) Race-Neutral Implementation Agreement, and adopt the 2007/2008 Fiscal Year Annual Anticipated DBE Participation Level (AADPL) goal of 14%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it is the goal of the City of Modesto that if any United States Department of Transportation funds are used for contract services, it will assure that no portion of the projected goal will be attained by using race-and gender-conscious means in accordance with 49 CFR, Part 26 and other applicable statutes, regulations, and executive orders.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the 2007/2008 Fiscal Year Annual Anticipated DBE Participation Level (AADPL) goal of 14% is hereby established.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute the DBE Race-Neutral Implementation Agreement and Program Plan with the Federal Transit Administration.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-566

A RESOLUTION AUTHORIZING PARTICIPATION IN THE "UNIFIED CERTIFICATION PROGRAM" (UCP) FOR CERTIFYING DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACTORS IN AN AMOUNT NOT TO EXCEED $2,000

WHEREAS, 49 CFR, Part 26 necessitates that the City of Modesto participate in the California Unified Certification Program (UCP), and

WHEREAS, this program is the vehicle for certifying Disadvantaged Business Enterprise (DBE) contractors, and

WHEREAS, Federal regulations require that all jurisdictions receiving federal funds must participate in training costs for the certifying agencies, and

WHEREAS, in order to continue receiving federal funding on street, airport, and transit projects, the City must adopt a UCP consistent with federal regulations and receive approval, and

WHEREAS, financial participation in the UCP is also required in order to continue receiving Federal funding on street projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that participation in the UCP for certifying DBE contractors in an amount not to exceed $2,000 is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-567

A RESOLUTION APPROVING OPERATION OF MOBILE HOME RENTAL ASSISTANCE PROGRAM.

WHEREAS, the City Council Finance Committee and City Council have been studying issues regarding rent stabilization as it applies to the mobile home parks located in Modesto, and

WHEREAS, on August 14, 2007, by motion, the Modesto City Council took action to accept the market study report on Mobile Homes in Modesto, and

WHEREAS, on August 14, 2007, by motion, the Modesto City Council introduced a Mobile Home Rent Stabilization Ordinance which included a Memorandum of Understanding proposed by a group of stakeholders, and

WHEREAS, within the Memorandum of Understanding is an agreement that the Mobilé Home Park Owners will provide funding, up to $20 per space, per year, for a rental assistance program, with the City providing matching funds, and

WHEREAS, the City Council has chosen the to

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Option 2 – To opt to administer a rental assistance program. If Signatory Park Owners of 1400 home sites contributed $20 annually per home site ($28,000 per year,) for example, the City could then provide matching funds of $28,000 for rental assistance.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-568

A RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF MODESTO 2007-2008 HUD ANNUAL ACTION PLAN AND AUTHORIZING THE CITY MANAGER TO EXECUTE RELATED DOCUMENTS.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, on May 8, 2007, by Resolution No. 2007-281, the Modesto City Council approved the adoption of the 2007-2008 HUD Annual Action Plan, and

WHEREAS, staff has proposed amendments to the Annual Action Plan as set forth in Exhibit "1" attached hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of proposed amendments to the Annual Action Plan, and to provide a 30-day comment period, which began August 25, 2007, and ended on September 25, 2007, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the HUD Annual Action Plan at its August 24, 2007, meeting, and the Committee recommended that the City Council approve amendments to the HUD Annual Action Plan as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on September 25, 2007, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendments to the 2007-2008 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Amendment to the 2007-2008 HUD Annual Action Plan a copy which is attached hereto as **Exhibit "1"** and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit 1	Entitlement	Entitlement Program Income	Entitlement Reprogram	RLF Program Income	RLF Reprogram	Total	CDBG Amendment	RLF Amendment	Grand Total
CDBG Funding									
Entitlement	2,419,397	50,000	50,410			2,519,807			2,519,807
Entitlement Carryover							245,000		245,000
Revolving Loan Fund (RLF)				200,000	287,000	487,000			487,000
RLF Carryover								600,000	600,000
Funds from Economic Development					293,535	293,535			293,535
CDBG Funding Total	**2,419,397**	**50,000**	**50,410**	**200,000**	**580,535**	**3,300,342**	**245,000**	**600,000**	**4,145,342**
CDBG Budget									
Housing Development, Preservation & Home Ownership	**804,334**	**50,000**	**50,410**	**140,000**	**580,535**	**1,625,279**	**170,000**	**550,000**	**2,345,279**
Down Payment Assistance Program	120,000					120,000	120,000		240,000
Housing Rehabilitation Program Loans - single-unit				40,000	160,000	200,000		250,000	450,000
Housing Rehabilitation Program Loans - multi-unit					83,000	83,000			83,000
Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - single-unit				100,000	15,000	115,000		200,000	315,000
Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - multi-unit					25,000	25,000			25,000
Minor Home Repair Grant Program (MHRGP)					4,000	4,000			4,000
Rehabilitation Property Improvement Programs - single-unit	14,500					14,500			14,500
Rehabilitation Property Improvement Programs - multi-unit	500					500			500
Neighborhood Revitalization Strategy					293,535	293,535		100,000	393,535
Lead-Based Paint Services	10,000					10,000			10,000
Housing Demolition	6,000					6,000			6,000
Temporary Relocation	10,000					10,000			10,000
Homeowner Displacement Program							50,000		50,000
Housing Rehabilitation Administration Total	643,334					643,334			643,334
- Loan Application & Portfolio Processing ($81,686)									
- Rehabilitation Technical Assistance Inspections & Services ($163,946)									
- Environmental Review Services ($109,510)									
- Housing Rehabilitation Admin ($288,192)									
Housing Rehabilitation Accessibility Program		50,000	50,410			100,410			100,410
Public Facility & Improvement	**80,000**	**0**	**0**	**0**	**0**	**80,000**	**75,000**	**0**	**155,000**
Accessibility Features at City Facilities	10,000					10,000			10,000
Neighborhood Based Projects	15,000					15,000			15,000
The Salvation Army Berberian Winter Shelter Roof	55,000					55,000			55,000
ADA Curb Ramps							75,000		75,000
Neighborhood Preservation & Stabilization	**262,382**	**0**	**0**	**22,500**	**0**	**284,882**	**0**	**0**	**284,882**
Code Enforcement - Building Codes	22,500			22,500		45,000			45,000
Code Enforcement - Neighborhoods	219,882					219,882			219,882
Neighborhood Cleanup	20,000					20,000			20,000
Economic Development Technical Assistance	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**50,000**	**50,000**
Economic Development RFP						0		50,000	50,000

FY 07-08 Annual Action Plan Amendment

Exhibit 1

Exhibit 1	Entitlement	Entitlement Program Income	Entitlement Reprogram	RLF Program Income	RLF Reprogram	Total	CDBG Amendment	RLF Amendment	Grand Total
Program Administration & Planning	**533,879**	**0**	**0**	**0**	**0**	**533,879**	**0**	**0**	**533,879**
General Administration	450,231					450,231			450,231
Indirect Administration	83,648					83,648			83,648
Section 108 Loan Repayments (Principal & Interest)	**374,475**					**374,475**			**374,475**
Public Services	**364,327**	**0**	**0**	**37,500**	**0**	**401,827**	**0**	**0**	**401,827**
American Red Cross "Emergency Shelter Services'	18,812					18,812			18,812
Children's Crisis Center (CCC) "Cricket Homeless Shelter'				2,960		2,960			2,960
Children's Crisis Center (CCC) "Cricket's N.E.A.T. Program"	20,036					20,036			20,036
Children's Crisis Center (CCC) "Marsha's N.E.A.T. Program"	26,363					26,363			26,363
Center for Human Services (CHS) "Hutton House "	22,563					22,563			22,563
Center for Human Services (CHS) "Pathways"	16,054					16,054			16,054
Community Housing & Shelter Services (CHSS) "Laura's House Families in Recovery'	22,332					22,332			22,332
Community Housing & Shelter Services (CHSS) "Supportive Services Case Manager'	27,426					27,426			27,426
Community Housing & Shelter Services (CHSS)"Housing Case Manager"				12,424		12,424			12,424
Disability Resource Agency for Independent Living (DRAIL) "Assistive Technology Program'	18,167					18,167			18,167
Healthy Aging "Young at Heart"	31,329					31,329			31,329
Howard Training Center "Senior Meals Program"	14,195					14,195			14,195
Interfaith Ministries "Santa Fe Winter Shelter"				6,790		6,790			6,790
Parent Resource Center "ABC's of Childcare'	16,731					16,731			16,731
Project Sentinel "Fair Housing"	67,682					67,682			67,682
Second Harvest Food Bank "Food Assistance Program'	37,235					37,235			37,235
Stanislaus Literacy Center "West Modesto English Tutoring'	25,402					25,402			25,402
The Salvation Army "Berberian Winter Shelter'				15,326		15,326			15,326
CDBG Grand Total	**2,419,397**	**50,000**	**50,410**	**200,000**	**580,535**	**3,300,342**	**245,000**	**600,000**	**4,145,342**

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-569

Print

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 ANNUAL OPERATING BUDGET TO REFLECT APPROVED CHANGES TO THE HUD ANNUAL ACTION PLAN AND AUTHORIZING THE FINANCE DIRECTOR TO TAKE THE NECESSARY STEPS TO IMPLEMENT TIE PROVISIONS OF THIS RESOLUTION.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, on May 8 2007, by Resolution No. 2007-281, the City Council approved the adoption of the 2007-2008 HUD Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that changes should be made to programs and services provided to better meet the needs of the citizens of Modesto, and

WHEREAS, these program changes require reallocation of operating budget funds, and

WHEREAS, reallocation of these funds is more fully described on Exhibit "1", and **Attachments B-1 and B-2** attached hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the HUD Annual Action Plan at its August 24, 2007, meeting, and the Committee recommended that the City Council approve amendments to the HUD Annual Action Plan as proposed by staff as well as to approve the budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on September 25, 2007, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010

Tenth Street, to consider approval of the proposed amendments to the 2006-2007 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2007-2008 Annual Operating Budget to reflect approved changed to the HUD Annual Action Plan as indicated in Exhibit "1" and Attachments B-1 and B-2, attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SAWood
SUSANA ALCALA WOOD, City Attorney

Exhibit 1	Entitlement	Entitlement Program Income	Entitlement Reprogram	RLF Program Income	RLF Reprogram	Total	CDBG Amendment	RLF Amendment	Grand Total
Program Administration & Planning	**533,879**	**0**	**0**	**0**	**0**	**533,879**	**0**	**0**	**533,879**
General Administration	450,231					450,231			450,231
Indirect Administration	83,648					83,648			83,648
Section 108 Loan Repayments (Principal & Interest)	**374,475**					**374,475**			374,475
Public Services	**364,327**	**0**	**0**	**37,500**	**0**	**401,827**	**0**	**0**	**401,827**
American Red Cross "Emergency Shelter Services'	18,812					18,812			18,812
Children's Crisis Center (CCC) "Cricket Homeless Shelter'				2,960		2,960			2,960
Children's Crisis Center (CCC) "Cricket's N.E.A.T. Program"	20,036					20,036			20,036
Children's Crisis Center (CCC) "Marsha's N.E.A.T. Program"	26,363					26,363			26,363
Center for Human Services (CHS) "Hutton House "	22,563					22,563			22,563
Center for Human Services (CHS) "Pathways"	16,054					16,054			16,054
Community Housing & Shelter Services (CHSS) "Laura's House Families in Recovery'	22,332					22,332			22,332
Community Housing & Shelter Services (CHSS) "Supportive Services Case Manager'	27,426					27,426			27,426
Community Housing & Shelter Services (CHSS)"Housing Case Manager"				12,424		12,424			12,424
Disability Resource Agency for Independent Living (DRAIL) "Assistive Technology Program'	18,167					18,167			18,167
Healthy Aging "Young at Heart"	31,329					31,329			31,329
Howard Training Center "Senior Meals Program"	14,195					14,195			14,195
Interfaith Ministries "Santa Fe Winter Shelter"				6,790		6,790			6,790
Parent Resource Center "ABC's of Childcare'	16,731					16,731			16,731
Project Sentinel "Fair Housing"	67,682					67,682			67,682
Second Harvest Food Bank "Food Assistance Program'	37,235					37,235			37,235
Stanislaus Literacy Center "West Modesto English Tutoring'	25,402					25,402			25,402
The Salvation Army "Berberian Winter Shelter'				15,326		15,326			15,326
CDBG Grand Total	**2,419,397**	**50,000**	**50,410**	**200,000**	**580,535**	**3,300,342**	**245,000**	**600,000**	**4,145,342**

FY 07-08 Annual Action Plan Amendment

Exhibit 1

Exhibit 1

	Entitlement	Entitlement Program Income	Entitlement Reprogram	RLF Program Income	RLF Reprogram	Total	CDBG Amendment	RLF Amendment	Grand Total
CDBG Funding									
Entitlement	2,419,397	50,000	50,410			2,519,807			2,519,807
Entitlement Carryover							245,000		245,000
Revolving Loan Fund (RLF				200,000	287,000	487,000			487,000
RLF Carryover								600,000	600,000
Funds from Economic Development					293,535	293,535			293,535
CDBG Funding Total	**2,419,397**	**50,000**	**50,410**	**200,000**	**580,535**	**3,300,342**	**245,000**	**600,000**	**4,145,342**
CDBG Budget									
Housing Development, Preservation & Home Ownership	**804,334**	**50,000**	**50,410**	**140,000**	**580,535**	**1,625,279**	**170,000**	**550,000**	**2,345,279**
Down Payment Assistance Program	120,000					120,000	120,000		240,000
Housing Rehabilitation Program Loans - single-unit				40,000	160,000	200,000		250,000	450,000
Housing Rehabilitation Program Loans - multi-unit					83,000	83,000			83,000
Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - single-unit				100,000	15,000	115,000		200,000	315,000
Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - multi-unit					25,000	25,000			25,000
Minor Home Repair Grant Program (MHRGP)					4,000	4,000			4,000
Rehabilitation Property Improvement Programs - single-unit	14,500					14,500			14,500
Rehabilitation Property Improvement Programs - multi-unit	500					500			500
Neighborhood Revitalization Strategy					293,535	293,535		100,000	393,535
Lead-Based Paint Services	10,000					10,000			10,000
Housing Demolition	6,000					6,000			6,000
Temporary Relocation	10,000					10,000			10,000
Homeowner Displacement Program							50,000		50,000
Housing Rehabilitation Administration Total	643,334					643,334			643,334
- Loan Application & Portfolio Processing ($81,686)									
- Rehabilitation Technical Assistance Inspections & Services ($163,946)									
- Environmental Review Services ($109,510)									
- Housing Rehabilitation Admin ($288,192)									
Housing Rehabilitation Accessibility Program		50,000	50,410			100,410			100,410
Public Facility & Improvement	**80,000**	**0**	**0**	**0**	**0**	**80,000**	**75,000**	**0**	**155,000**
Accessibility Features at City Facilities	10,000					10,000			10,000
Neighborhood Based Projects	15,000					15,000			15,000
The Salvation Army Berberian Winter Shelter Roof	55,000					55,000			55,000
ADA Curb Ramps							75,000		75,000
Neighborhood Preservation & Stabilization	**262,382**	**0**	**0**	**22,500**	**0**	**284,882**	**0**	**0**	**284,882**
Code Enforcement - Building Codes	22,500			22,500		45,000			45,000
Code Enforcement - Neighborhoods	219,882					219,882			219,882
Neighborhood Cleanup	20,000					20,000			20,000
Economic Development Technical Assistance	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**50,000**	**50,000**
Economic Development RFP						0		50,000	50,000

REQUEST FOR BUDGET ADJUSTMENT

Exhibit B-1

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation and Neighborhoods
Project Title: CDBG Fund activities
Fund Title: CDBG Funds 1130

Council Action Date:
Resolution Number:
FY: 07-08
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
1130-320-3254-3511		$0	$120,000	$120,000	CDBG Carryover
1130-320-3274-3511		$0	$50,000	$50,000	CDBG Carryover
1130-320-3215-3511		$0	$75,000	$75,000	CDBG Carryover
		Total	**$245,000**		
APPROPRIATIONS					
FROM					
TO					
1130-320-3254-0497	3250C	$120,000	$120,000	$240,000	Down Payment Assistance Program
		Total	**$120,000**		
1130-320-3274-0496		$0	$25,000	$25,000	Direct Grants
1130-320-3274-0497		$0	$25,000	$25,000	Direct Loans
		Total	**$50,000**		
1130-320-3215-6010		$0	$7,500	$7,500	Engineering/Design/Admin
1130-320-3215-6040		$0	$60,000	$60,000	Construction
1130-320-3215-6050		$0	$3,750	$3,750	Contingency
1130-320-3215-6060		$0	$3,750	$3,750	Construction Admin
		Total	**$75,000**		
		GRAND TOTAL	**$245,000**		

Budget adjustments are necessary to reallocate CDBG Entitlement funds that were not spent in prior years.

Request City Council's approval to create two multi-year organizations:
Org 3274 - Homeowner Displacement Program
Org 3215 - 07-08 ADA Curb Ramps

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMINISTRATIVE SERVICE OFFICER		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NO. _____ BY: _____ DATE: _____

REQUEST FOR BUDGET ADJUSTMENT

Exhibit B-2

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation and Neighborhoods
Project Title: Revolving Loan Fund activities
Fund Title: Revolving Loan Funds 1150s

Council Action Date: _____
Resolution Number: _____
FY: 07-08
Transfer No. _____

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
1150-320-3266-3511		$0	$450,000	$450,000	CDBG Carryover
1151-320-3272-3511		$0	$50,000	$50,000	CDBG Carryover
1151-320-3273-3511		$0	$100,000	$100,000	CDBG Carryover
		Total	**$600,000**		
APPROPRIATIONS					
FROM					
TO					
1150-320-3266-0497		$283,000	$250,000	$533,000	Housing Rehabilitation Program Loans (single-unit and multi-unit)
1150-320-3266-0495		$140,000	$200,000	$340,000	Emergency Home Repair Program / Rehab Accessibility Program (single-unit and multi-unit)
		Total	**$450,000**		
1151-320-3272-0496		$50,000	**$50,000**	$100,000	Direct Grant
1151-320-3273-0489		$293,535	**$100,000**	$393,535	Project Area Revitalization
		GRAND TOTAL	**$600,000**		

Budget adjustments are necessary to reallocate CDBG Entitlement funds that were not spent in prior years.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMINISTRATIVE SERVICE OFFICER		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NO. _____ BY: _____ DATE: _____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-570

A RESOLUTION APPROVING THE CITY OF MODESTO CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR FISCAL YEAR 2006-2007, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT THE REPORT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD).

WHEREAS, the City of Modesto receives several Federal grants from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the Consolidated Annual Performance and Evaluation Report (CAPER) reflects the activities of the City and its sub-recipients for the period of July 1, 2006, through June 30, 2007, and

WHEREAS, each year the City must review and report on the performance of activities funded under the Community Development Block Grant (CDBG), HOME Investment Partnership Grant, and Emergency Shelter Grant (ESG) funds, and

WHEREAS, the CAPER must be made available for public review and comment for a minimum 15-day period, and

WHEREAS, the CAPER was made available for public review and comment from September 10, 2007, through September 25, 2007, and

WHEREAS, all public comments, and staff responses to these comments, must be presented to the City Council for review and approval, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on September 12, 2007, and reviewed and recommended the CAPER, and

WHEREAS, a duly noticed public hearing was held by the Council on September 25, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider approval of the CAPER,

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

1. That the Consolidated Annual Performance and Evaluation Report for Fiscal Year 2006-2007 is hereby approved, and a copy of said report is on file in the office of the City Clerk.

2. That the City Manager, or his authorized designee, is hereby authorized, after having made any necessary correction, to submit said report to the U.S. Department of Housing and Urban Development (HUD).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-571

A RESOLUTION ELECTING TO RECEIVE A PORTION OF THE TAX INCREMENTS PURSUANT TO HEALTH AND SAFETY CODE SECTIONS 33607.7 AND 33607.5

WHEREAS, on July 12, 1983, the City Council of the City of Modesto (the "Council"), adopted Ordinance No. 2203-C.S.approving and adopting the Redevelopment Plan (the "Original Redevelopment Plan") for the Modesto Redevelopment Project (the "Project") pertaining to the "Original Project Area", and

WHEREAS, on June 19, 1984, the Council adopted Ordinance No. 2269-C.S. amending the Original Redevelopment Plan, and

WHEREAS, on November 5, 1991, the Council adopted Ordinance No. 2793-C.S. approving and adopting an Amended Redevelopment Plan (the "Redevelopment Plan"), which replaced the Original Redevelopment Plan and added certain area (the "Amended Area") to the Project Area, and

WHEREAS, on November 19, 1991, because the Amended Area includes certain areas located within the unincorporated area of the County, the Board of Supervisors of the County of Stanislaus adopted Ordinance No. C.S. 454 approving and adopting the Redevelopment Plan, and

WHEREAS, on November 22, 1994, the City Council adopted Ordinance No. 2931-C.S. and on December 20, 1994, the Board of Supervisors adopted Ordinance No. C.S. 580 establishing and amending certain limitations with respect to the Redevelopment Plan, and

WHEREAS, Section 33333.6 of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.) provides, in part, that on or after January 1, 2002, a redevelopment plan adopted on or before December 31, 1993, may be amended to eliminate the

time limit on the establishment of loans, advances, and indebtedness that was previously required by that section prior to January 1, 2002, and

WHEREAS, Section 33607.7 of the Health and Safety Code provides, in part, that if a redevelopment plan adopted prior to January 1, 1994, is amended to increase or eliminate the time limit on the establishing of loans, advances, and indebtedness established pursuant to Section 33333.6, and an agreement was not entered into by the agency and the taxing entity prior to January 1, 1994, that requires payments to the taxing entity, the agency shall pay to such affected taxing entity the amounts required pursuant to subdivisions (b), (c), (d), and (e) of Section 33607.5, and

WHEREAS, Section 33607.5(b) of the Health and Safety Code provides that in any fiscal year in which a redevelopment agency receives tax increments, the community that has adopted the redevelopment project area may elect to receive, and the agency shall pay to it, an amount equal to the community's proportionate share of 25 percent of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted (the "City Election"), and

WHEREAS, concurrently herewith, the City Council has considered and introduced for first reading an Ordinance to eliminate and amend certain time limitations with respect to the Redevelopment Plan, including to eliminate the time limit on the establishing of loans, advances, and indebtedness contained in the Redevelopment Plan;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council hereby elects to receive the City Election for each fiscal year of the Redevelopment Project in which the Agency receives tax increment from the Project Area.

Section 2. The City Clerk is hereby directed and authorized to transmit a copy of this resolution to the Executive Director of the Redevelopment Agency of the City of Modesto and to the tax collector of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-572

A RESOLUTION DENYING THE APPEAL OF QUALITY TYMES CORPORATION, DBA OCEANS 10 RESTAURANT, AND AKA SIN CITY NIGHTS AND MODIFYING THE POLICE CHIEF'S LETTER OF INTENT TO REVOKE THEIR DANCE PERMIT BY IMPOSING A 30 DAY SUSPENSION, UNTIL OCTOBER 23, 2007, WITH A REPORT DUE BACK TO THE CITY COUNCIL FOR DETERMINATION AS TO THE FINAL STATUS OF THE DANCE PERMIT.

WHEREAS, Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights was issued a dance permit on July 9, 2007, by the City of Modesto imposing specific conditions for its operation; a copy of said dance permit is attached hereto and incorporated herein by reference as **Exhibit "A"**, and

WHEREAS, by signing for receipt of the dance permit, the responsible party, Rosalind Mitchell acknowledged, read and agreed to comply with every required condition set forth in Exhibit "A", including an acknowledgment that any violation could result in revocation of the dance permit, and

WHEREAS, Modesto Municipal Code Section 4-1.413 authorizes the Police Chief to revoke or suspend a dance permit when violations of the permit occurs, and

WHEREAS, on August 24, 2007, based on a number of violations of the dance permit which had occurred, the Police Chief sent a Letter of Intent to Revoke to Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights, c/o Rosalind Mitchell (hereafter "Appellant") to revoke their dance permit, a copy of which is attached hereto and incorporated herein by reference as **Exhibit "B"**, and

WHEREAS, by letter dated August 30, 2007, Appellant filed a notice of appeal with the Office of the City Clerk to the decision of the Police Chief revoking their dance

permit, a copy of which is attached hereto and incorporated herein by reference as Exhibit "C", and

WHEREAS, by an agenda report to the City Council from the Police Chief, dated September 10, 2007, City staff recommended the dance permit for Appellant be revoked, and

WHEREAS, this recommendation was based on nine violations of their dance permit as fully set forth in Exhibit "A", and

WHEREAS, by letter dated September 21, 2007, Appellant requested a continuance of the hearing on their appeal to October 9, 2007; said request was denied by the City Council, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at 5:30 p.m. on September 25, 2007, at which date and time said public hearing was held, the Appellant was present and evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing the Council found and determined that said appeal should be denied, however, the Council determined that based on the testimony provided by the Appellant and evidence presented that in recent weeks the Appellant had made good efforts to address the problems occurring at their premises, the Police Chief's Letter of Intent to Revoke should be modified by imposing a 30 day suspension, until October 23, 2007, with a report due back to the City Council for determination as to the final status of their dance permit,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights, for the revocation of their dance permit is hereby denied and that in lieu of revocation the Police Chief's Letter of Intent to Revoke is hereby modified by imposing a 30 day initial suspension, until October 23, 2007, with a report due back to the City Council by the Appellant and the Police Department as to the measures to be taken to ensure Appellant's compliance with all the conditions of their dance permit. Council shall take this report into consideration for the purpose of determining whether the suspension should be lifted, extended or revocation imposed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

CITY of MODESTO

Modesto Police Department
600 Tenth Street
Modesto, CA 95354
209.572.9500
209.523.4082 Fax

Hearing and Speech Impaired Only
TDD 209.526.9211

Administration Division
P.O. Box 1746
Modesto, CA 95353
209.572.9501
209.572.9669 Fax

Investigations Division
P.O. Box 1814
Modesto, CA 95353
209.572.9551
209.572.0741 Fax

Operations Division
P.O. Box 3313
Modesto, CA 95353
209.572.9598
209.572.9656 Fax

Support Division
P.O. Box 1746
Modesto, CA 95353
209.572.9519
209.572.9669 Fax

July 9, 2007

Quality Tymes
953 10th Street
Modesto, CA 95350

Attn: Rosalind Mitchell

Your request for a dance permit for Tymeless Cuisine, located at 953 10th Street, Modesto, CA., has been approved subject to the following conditions:

DANCE PERMIT EXPIRES 09/30/2007

SECURITY:

1. A California State Licensed/Certified Security Company or Guard shall provide security for the business. The company shall be licensed to do business in the City of Modesto.

(a) All security guards shall be licensed, as provisioned by California State Statute or through the Modesto Police Department DED Guard Card Requirements.
(b) All security guard applicants must be able to meet the application requirements by the Department of Consumer Affairs for a guard card/license or by Modesto Police Department DED Guard Card Requirements.
(c) Upon receipt of guard card, a copy of guard card must be furnished to the Modesto Police Department to the attention of Leslie Rodriguez 48 hours of receipt of card.
(d) All security guards currently employed and new hires shall have 60 days to come into compliance with the guard card requirements through the State or the Modesto Police Department.

2. There shall be at least one (1) security officer stationed at the entrance of the business during hours of dancing. These officers shall keep count of patrons entering and leaving the business by use of two mechanical counting device, one for those entering and

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one for those patrons exiting and made available for inspection by the police department upon demand.

3. There shall be at least one (1) staff personnel stationed at every exit of the building.

4. There shall be one (1) state licensed and certified security guard per fifty (50) occupants inside the premises.

PERMIT REQUIREMENTS:

5. If the facility is leased, subletted, or rented, the organization or individual must apply for a 'Daily Dance Permit' application 15 days in advance of the event providing proof of security, and a copy of the lease agreement for use of the facility.

6. If Applicant/establishment is owned as a corporation or partnership, it shall provide to Modesto Police Department a full disclosure of all partners, and /or officers, including their addresses and phone numbers. Any changes in owners, their addresses or phone numbers must be reported to the Modesto Police Department within 3 business days of any changes.

7. This condition letter shall be posted along with the dance hall establishment permit in public view and available to law enforcement for inspection upon request.

8. There shall be no topless dancing, nude dancing and/or male, female revues permitted on the premises at anytime or any violation to the Adult Entertainment Ordinance, MMC 5-9.101 through 5-9.407.

9. Modesto Police Department is not responsible or required to send reminder notices regarding the renewal of a dance permit. The permit holder is responsible to file a dance permit application within 15 days of the expiration date. If the permit expires, the dance permit is no longer valid and enforcement or administrative fines may be levied.

10. As a condition of the issued dance permit, the Modesto Police Department must have on file at all times evidence of liability

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insurance naming the City of Modesto as an additional insured. Minimum liability amounts must be one million dollars ($1,000,000.00).

11. Facilities who hold a dance permit in the DED shall be operating and linked electronically to a centralized scanning system of an ID reader and a shared telecommunication system upon delivery of equipment.

12. A Dance permit shall not be issued or renewed if the business license fees, filings and/or taxes are not current or paid in full.

13. Modesto Police Department may change or revise conditions of this dance permit with 48-hour written notice.

14. Membership and attendance to the DED (Downtown Entertainment District) monthly meetings facilitated by DID (Downtown Improvement District) is required of a general manager and/or owner of facilities who hold dance permits in the DED area.

UNIFORMS:

15. All private security guards and security staff/bouncers must be in a light colored (white, yellow, tan or light gray) shirts and outer layering with the following on the back of the shirts or outer layering in black or dark blue lettering: 'SECURITY'. Only black or blue lettering is permitted and no smaller than 4 inches in height. Lettering must be monogrammed, embroidered or silk-screened. The front of the shirts shall also display the name of the security company and/or the club name and 'SECURITY' in smaller, visible print. Dark colored pants are acceptable.

SAFETY PROVISIONS:

16. Occupancy for the premises shall be posted above the main entrance visible to the public and also posted above every bar(s) location within establishment.

17. At no time shall the occupancy exceed the rated number posted for occupancy. If it is determined that the premise is over their posted

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P.O. Box 3313
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209.572.9598
209.572.9656 Fax

Support Division
P.O. Box 1746
Modesto, CA 95353
209.572.9519
209.572.9669 Fax

occupancy, the Police Department shall have the authority to restrict further entrance of patrons until the facility has abated their occupancy issue.

18. Entertainment provided by the licensee shall not be audible beyond the entertainment venue under the control of the licensee.

19. Patrons shall be prohibited from 'in-and-out' privileges to the club without paying a cover charge each and every time they re-enter the club or; if there is no cover charge, patrons must allow one hour before they re-enter the club on the same evening. The establishment is required to document such entrance and exit activity by electronic ID scanner or other verifiable means and must produce this to law enforcement upon demand.

20. The licensee is responsible for the orderly disbursement of all patrons upon closing and within thirty (30) minutes prior to the establishments' closing time.

21. Security staff will remain on the premises until all patrons have left the vicinity of the premises and surrounding neighborhoods when the business closes and discourage any loitering in the parking areas to business during and at the close of business.

22. At all time during hours of operation, the business shall remain open and accessible to law enforcement and the fire department.

23. A soft close is authorized under the following conditions:
   (a) Dancing shall cease at approximately 2:00 A.M., so that patrons can be cleared from the establishment by 3:00 A.M.
   (b) All sales of alcohol must cease at 1:30 A.M.
   (c) Consumption of alcohol must stop by 2:00 A.M. and drinks are to be collected and disposed of.
   (d) No new patrons are to be allowed into the club after 1:30 A.M.
   (e) No outside advertising of 'soft close' or after hours dancing.
   (f) Patrons requesting taxi service or alternative transportation will be given reasonable assistance by the club management/security staff.
   (g) Conditions to this soft close can be amended and the authorization
   (h) The soft closing is revocable at any time by the Modesto Police

CITY of MODESTO

Modesto Police Department
600 Tenth Street
Modesto, CA 95354
209.572.9500
209.523.4082 Fax

Hearing and Speech Impaired Only
TDD 209.526.9211

Administration Division
P.O. Box 1746
Modesto, CA 95353
209.572.9501
209.572.9669 Fax

Investigations Division
P.O. Box 1814
Modesto, CA 95353
209.572.9551
209.572.0741 Fax

Operations Division
P.O. Box 3313
Modesto, CA 95353
209.572.9598
209.572.9656 Fax

Support Division
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Department.

ABC REQUIREMENTS:

24. Licensee shall adhere to all conditions of their ABC license issued to the premises.

25. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under control of the licensee.

26. On duty employees for the business shall not consume alcoholic beverages or be under the influence of an alcoholic beverage on the premises during hours of operation.

27. Those areas adjacent to the business shall be maintained litter free. All litter shall be removed within (3) three hours of closing time.

SPECIAL EVENTS:

28. Any valid dance establishment permit holder that holds a special event shall notify the Modesto Police Department by electronic e-mail notification to include both CSO Leslie Rodriguez (Rodriguezl@modestopd.com and Lt. Ron Cloward Clowardr@modestopd.com not less than twenty four (24) calendar days in advance of the special event.

(a) A "special event" is defined as any live performance, concert, live music event, live entertainment or any person or persons providing musical entertainment with live or recorded music.

(b) The Modesto Police Department shall review the written notification of the special event and determine, based upon past experience and/or research, whether it is reasonably likely that the special event may draw a large attendance, evoke increased violence, noise, public drunkenness, drug-trafficking and other illegal activity.

CITY of MODESTO

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(c) The Modesto Police Department will notify the permit holder of its determination 14 calendar days before the event, provided the Modesto Police Department receives timely notice of the special event. If the Modesto Police Department determines that the special event is reasonably likely to draw a large attendance, evoke increased violence, noise, public drunkenness, drug trafficking or other illegal activities, the Modesto Police Department will require the dance establishment to increase its security requirements. The additional security required for any special event is an express condition of the dance permit and is in addition to all other security requirements of the dance establishment permit.

(d) Additionally, the holder of the establishment's dance permit will be responsible for costs of additional police officers, community service officers and other staffing as determined by the Modesto Police Department, based upon past experience and/or research which is required to maintain the tranquility, good order, and well being of the downtown area and the community at large prior to, during, and after the dance establishment's special event. The Modesto Police Department will invoice the dance establishment permit holder for the cost of additional police officers, community service officers, or other staffing within fifteen (15) days of the special event. The dance establishment permit holder shall pay said invoice within fifteen (15) days of the date on the invoice.

FINES, SUSPENSION AND REVOCATION:

29. The licensee agrees to pay for police services provided by the City of Modesto for costs of police services, as determined by the Chief of Police and are a result of public disorder arising from patrons of the establishment.

CITY of MODESTO

Modesto Police Department
600 Tenth Street
Modesto, CA 95354
209.572.9500
209.523.4082 Fax

Hearing and Speech Impaired Only
TDD 209.526.9211

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209.572.9669 Fax

30. Any violations of these conditions, local ordinances or state laws may result in administrative fines, or the immediate suspension and/or revocation of the dance hall permit per Modesto Municipal Code 4-1.413 (Revocation of Permit).

Sincerely,

Modesto Police Department
Roy W. Wasden,
Chief of Police

Lt. Ron Cloward
Operations Division

Received, read, agreed and acknowledged

TYMELESS CUISINE

By: _____
Rosalind Mitchell

CITY OF MODESTO
POLICE DEPARTMENT
* PERMIT *

Dance Hall Establishment

AUTHORIZATION IS HEREBY GRANTED TO OPERATE THE ABOVE ACTION IN ACCORDANCE WITH ARTICLE 4 CHAPTER 1 TITLE 401, MODESTO MUNICIPAL CODE AT:

Quality Tymes
NAME OF BUSINESS

953 10th St
ADDRESS

THIS LICENSE EXPIRES: 09/30/2007

NO: 3rd Quarter 2007

CHIEF OF POLICE and/or DEPUTY CITY CLERK

Exhibit "B"

CC: Atty; CMO

City of Modesto
POLICE DEPARTMENT

1010 Tenth Street
Modesto, California

Roy W. Wasden, Chief of Police

Main Office
P.O. Box 3313
Modesto, CA 95353
209.572.9500
209.523.4082 Fax

Administration
P.O. Box 1746
Modesto, CA 95353
209.572.9501
209.572.9669 Fax

Investigations
P.O. Box 1814
Modesto, CA 95353
209.572.9551
209.572.0741 Fax

Operations
P.O. Box 3313
Modesto, CA 95353
209.572.9565
209.523.4656 Fax

Support
P.O. Box 1746
Modesto, CA 95353
209.572.9519
209.523.9669 Fax

Letter of Intent to Revoke

Quality Times Corporation
C/O Rosalind Mitchell
4400 Gomes Rd
Modesto, Ca. 95354

August 24, 2007

Dear Ms. Mitchell

It is the intent of the Chief of Police of the Modesto Police Department to revoke your dance permit pursuant to:

4-1.413 MMC; Revocation of Permit.

A dance permit may be revoked or suspended by the Chief of Police of the City of Modesto upon five (5) days' notice to the holder thereof, for violation of any of the provisions of this article, or of any condition imposed upon any permit, or of any rule or regulation promulgated hereunder, or of any state or local law. No person whose permit has been revoked shall be granted or issued a new permit, nor shall any new permit be granted or issued to any person who was or is an agent, employee or representative of the person whose permit was revoked unless the following conditions are satisfied:

(a) Twelve (12) months or more have elapsed since the former permittee was notified of the intended revocation;

(b) The former permittee has, to the satisfaction of the Chief of Police, corrected all conditions and violations upon which the revocation was based or has provided to the Chief of Police acceptable plans for procedures reasonably likely to prevent future violations should the permit be reissued;

(c) Such other conditions as the Chief of Police may reasonably require. (Added by Ord. 2563-C.S., § 1, amended by Ord. 2613-C.S., § 1, effective 11-3-88)

Basis for Revocation

The basis for this revocation is related to multiple violations of the dance permit. These violations were observed and documented on June 17, 2007 by Detective Steve Stanfield under case number #07-56621 and on July 15, 2007 under case #07-67252 by Lieutenant Ron Cloward. The violations are as follows:

Violation #1 (June 17, 2007)

You were unable to present a copy of your current dance permit upon request. Once you found a copy of a dance permit it was the expired permit from previous months. This is a violation of **Condition Seven** of the dance permit, which states; ***This condition letter shall be posted along with the dance hall establishment permit in public view and available to law enforcement for inspection upon request.***

Violation #2 (June 17, 2007)

The performance of Go-Go dancers in cages is deemed a special event and no notification was made. This is a violation of **Condition Twenty-Eight** of the dance permit, which states; ***A "special event" is defined as any live performance, concert, live music event, live entertainment or any person or persons providing musical entertainment with live or recorded music.***

Violation #3 (June 17, 2007)

The ABC license was not posted as per the requirements of ABC. It was eventually located under the counter. This is a violation of **Condition Twenty-Four** of the dance permit, which states; ***Licensee shall adhere to all conditions of their ABC license issued to the premises.***

Violation #4 (July 15, 2007)

There was only one mechanical counter located at the front door to be used to count patrons entering only. This is a violation of **Condition Two** of the dance permit which states; ***There shall be at least one (1) security officer stationed at the entrance of the business during hours of dancing. These***

officers shall keep count of patrons entering and leaving the business by use of two mechanical counting device, one for those entering and one for those patrons exiting and made available for inspection by the police department upon demand.

Violation #5 (July 15, 2007)

There was no security staff stationed at the back door of the business during hours of dancing. This is a violation of **Condition Three** of the dance permit, which states; *There shall be at least one (1) staff personnel stationed at every exit of the building.*

Violation #6 (July 15, 2007)

There were only six security personnel on staff for the night. The count I was given was 330 patrons inside. This is a violation of **Condition Four** of the dance permit, which states; *There shall be one (1) state licensed and certified security guard per fifty (50) occupants inside the premises.*

Violation #7 (July 15, 2007)

The security personnel were wearing white T-shirts. Some of these T-shirts had no writing on them at all that identified them as "SECURITY". Others had the words, "Security" on the back only. This is a violation of **Condition Fifteen** of the dance permit, which states; *All private security guards and security staff/bouncers must be in a light colored (white, yellow, tan or light gray) shirts and outer layering with the following on the back of the shirts or outer layering in black or dark blue lettering: 'SECURITY'. Only black or blue lettering is permitted and no smaller than 4 inches in height. Lettering must be monogrammed, embroidered or silk-screened. The front of the shirts shall also display the name of the security company and/or the club name and 'SECURITY' in smaller, visible print. Dark colored pants are acceptable.*

Violation #8 (July 15, 2007)

Patrons were leaving and re-entering the club at will. This is a violation of **Condition Nineteen** of the dance permit, which states; *Patrons shall be prohibited from "in-and-out" privileges to the club without paying a cover charge each and every time they re-enter the club or; if there is no cover charge, patrons must allow one hour before they re-enter the club on the same evening. The establishment is required to document such entrance and exit activity by electronic ID scanner or other verifiable means and must produce this to law enforcement upon demand.*

Violation #9 (July 15, 2007)

As the night came to a close, patrons were being pushed out of the club at one time and security went back inside while people stood on the sidewalk outside. This is a violation of **Conditions Twenty-One and Twenty-Three** of the dance permit, which states; ***Security staff will remain on the premises until all patrons have left the vicinity of the premises and surrounding neighborhoods when the business closes and discourage any loitering in the parking areas to business during and at the close of business. The licensee is responsible for the orderly disbursement of all patrons upon closing and within thirty (30) minutes prior to the establishments' closing time.***

The Modesto Police Department has met with the staff and ownership of your business and discussed these issues listed above. As of July 21, 2007 the shirts were still the same, patrons were still being put out of the business at one time with no observations of the soft close. Patrons have also continued to enter and leave at will.

Discussions have also taken place with the staff and management regarding the need to implement the electronic identification scanning system as mentioned in the dance permits. The clubs in the DED are currently all coming online with their equipment. To date Tymeless has not made any contact or attempt to get online with this system.

This system is required per **Condition Eleven** of the dance permit, which reads;

"Facilities who hold a dance permit in the DED shall be operating and linked electronically to a centralized scanning system of an ID reader and a shared telecommunication system upon delivery of equipment."

Due to the continued record of violations and refusal to comply with the conditions of your dance permit, the Modesto Police Department intends to revoke your dance permit as per 4-1.413 MMC.

The five day notice period required by the provisions of Modesto Municipal Code section 4-1.413 for the revocation of a dance permit commences with the personal service of this letter of intent, which will be served by Lt. Cloward on the date set forth below. The five day notice period will be calculated as five working days commonly defined as Monday through Friday, excluding holidays.

You also have a right to appeal this action pursuant to 4-1.415 of the Modesto Municipal Code which states;

Any person aggrieved by any action taken by any City official pursuant to this article may appeal to the Council of the City of Modesto in accordance with the provisions of Chapter 4 of Title 1 of this Code. (Added by Ord. 2563-C.S., § 1, effective 1-7-88)

YOU ARE HEREBY NOTIFIED that, effective 12:00 a.m. on the 31 day of August, 2007, the dance permit of the business known as Tymeless Cuisine and/or Sin City Nights is REVOKED.

YOU ARE FURTHER NOTIFIED that, after that date and time, Tymeless Cuisine/Sin City Nights, or any other operator of the property currently known by those business names, will be in violation of the permit requirements of the Modesto Municipal Code, and subject to any and all penalties set forth therein, if public dance activities are permitted on the premises unless the dance permit for the premises has first been reinstated.

Dated: 8/24, 2007

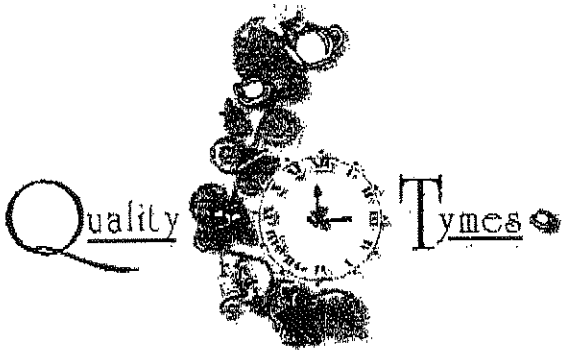
By: Roy W. Wasden

Modesto Police Department

Exhibit "C"

cc: Atty, CMO, Police Chief

RECEIVED
MODESTO CITY CLERK
07 AUG 30 AM 9:39



953 10th Street
Modesto, CA 95354

Notice Of Appeal
August 30, 2007

Quality Tymes operates *Oceans 10* restaurant providing elegant classic refined dining. Our dinner selections will be created by our Executive Chef featuring Pacific Rim Cuisine prepared simply and presented elegantly in an intimate setting.

Oceans 10 entertainment features *Sin City Nights* which provides a Las Vegas style entertainment setting for late night dining, dancing, and refreshments, with live and recorded music.

The development of the Quality Tymes Corporation business plan relies extensively on the existence of a dance permit. Our permit has been in place for over a year. We have worked hard during this year to provide vitality and high quality services to this location within the downtown redevelopment zone. We have worked tirelessly with city officials.

We have never been cited for any infractions. We have attended DED meetings as an active participant, and we have complied with all requests for modification of our business plan as they have occurred from all city offices. We believe we have fostered a solid constructive working relationship with Modesto Police to enhance the safety of the patrons we serve. Effective and timely communication has been an essential part of this relationship.

On August 23 we received two Administrative Citations. One day later, at midnight on August 24, we were served a Notice of Intent to Revoke our dance permit based on the citations received the day before. This was based on police reports filed over 30 days prior. We were never notified of police reports being filed concerning our business operating procedures, despite being in constant contact with the Police and requesting feedback on our operations.

Quality Tymes Corporation is appealing the Modesto Police Letter of Intent to Revoke based on five criteria outlined below:

for over 30 days is justified or in line with standards enforced for other similar organizations in the Downtown district.

The equitable enforcement of dance permit enforcement is the main criteria by which Quality Tymes does not believe our permit should be revoked. Without equitable enforcement of the permit requirements, the City of Modesto has created the ability to selectively allow one business to succeed while another is eliminated. The variances in enforcement of the dance permit regulations have been an issue that requires the immediate attention of the City Council in order to prevent the disruption of businesses trying to develop in the Modesto area.

The nature of each violation and concern noted in the Letter of Intent to Revoke and how it has been addressed are described below. We want to emphasize our continued willingness to work with the city officials responsible for enforcement of these measures. However, we request that you immediately grant our appeal or it jeopardizes our ability to continue our business.

Violation #1 6/17 - Copy of Dance Permit Not Posted

The Quality Tymes dance permit has been on display hanging on the wall three feet inside the front door. Newly hired staff had removed it while cleaning and had placed it under the counter at the front hostess station. It took less than 5 minutes to check the main office and under the counter to locate the permit. It has been hanging in its right spot since and staff has been educated on the fact that it is not to be moved. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. The situation has been corrected, and does not warrant the revocation of our dance permit.

Violation #2 6/17 – Introduction of "go-go dancers" deemed an "event"

There was no event on June 17, 2007. As part of our normal course of business, Quality Tymes hosts birthday parties, wedding receptions, dinners, and business receptions for up to 300 people. Many of these functions allow us to remain open to the public. On June 17, 2007 a customer hosted a birthday party under the name Sin City Nights. At the same time we initiated a change of format that includes some of the bartenders and hostesses acting as "go-go" dancers. This did not cause us to change our level of staffing or present any additional load on the public safety system, and therefore does not rise to the level of an event requiring prior notification. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. We are now identifying which nights include dancers in our regular monthly schedule notification to Modesto Police. This incident does not warrant the revocation of our dance permit.

Violation #3 6/17 - ABC License not posted

Cleaning had taken place where the ABC license, which has been on display since our opening on 12/31/2005, was taken down. The license was mistakenly placed under the counter instead of on the wall. In less than 5 minutes this oversight was corrected while the officers were present and the license remains on display as it always has. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. This incident does not warrant the revocation of our dance permit.

Violation #4 7/15 - Single mechanical counter

We use the electronic scanner as a counter for the number of people entering the building, and a single mechanical counter for the number of people exiting the building. We do this to help minimize the number of things the front door security must juggle in the event of trouble. We have not been notified that this is an unacceptable procedure. Backup mechanical counters are available on site so a two mechanical counter system can be used in the event of the failure of the electronic scanner. No concerns about our counting methods have been communicated to us. The method we use provides the necessary double count system to determine the number of people in the building. This incident does not warrant revocation of our dance permit.

Violation #5 7/15 - No staff at back door

It has been Quality Tymes' understanding from ABC regulations that there can be only one entrance and exit when liquor is being served. Under this definition, we considered the front door as our only exit and kept it staffed with security. Modesto Police has now clarified that their use of the term exit on the dance permit includes the fire exits which are not used as entrances during our hours of operation. The rear fire exit is now being staffed. This incident does not warrant revocation of our dance permit.

Violation #6 7/15 - 6 Security insufficient for 330 people

Quality Tymes' records show the security staff at 7 people on the night in question. This is sufficient staffing under the dance permit conditions. We share the Modesto Police concern about sufficient security staffing and our proud of our lack of major violent incidents at our facility. We are concerned that the Police officer did not check with management or the owners on site concerning the accurate count of the number of security staff on duty that evening. We are ensuring the door personnel know the accurate number of security working as well as providing refresher training on the importance of keeping an accurate door count.

Violation #7 7/15 - Security T-shirts not properly marked

The requirement for front markings on shirt had been overlooked on the first printing of new security uniforms. These are the shirts that were in use temporarily on July 15th. Replacement shirts with the necessary marking on the front identifying the wearer as security were ordered the next business day (Monday, 7/16). The printing for these shirts was completed on July 21. The shirts were placed in use that evening, 7/21. Modesto Police did speak with us about their concerns around the markings on the shirts. We took immediate action and the situation has now been corrected. This incident does not warrant revocation of our dance permit.

Violation #8 7/15 - Re-entry

Pending completion of the permit process for a permanent outside patio, Quality Tymes has negotiated an agreement with Lt. Cloward that allows patrons to exit the building and remain

within the crowd control ropes for the purpose of smoking without being considered "in and out". Patrons who exit the crowd control area must comply with the rules concerning "in and out" privileges. Modesto Police did speak with us about their concerns regarding compliance with re-entry policies. After some discussion they agreed that enforcement of the method we have described provides compliance with the re-entry policy. We are continuing our efforts to obtain a permit for a permanent outside patio which we expect to complete in the next 30-60 days. This incident does not warrant revocation of our dance permit.

Violation #9 7/15 - Disbursing crowd

Quality Tymes security regularly and completely disburses the crowd exiting our building. On the night in question, a neighboring business was vending food on the sidewalk after club closing hours. This resulted in a crowd forming in front of 949 10th Street business from patrons exiting other establishments on the street, which gave the appearance of spilling over in front of our establishment. Because our crowd was gone, our security did not remain on the street and were not available to assist in disbursing this gathering. Security procedures have been changed so that our security now maintains a presence on the street until all the other establishments in the neighborhood complete their close to ensure these people do not gather in front of our establishment. The sale of food products on the sidewalk next door to our establishment has been restricted. Modesto Police has mentioned to us that they felt we were not doing enough crowd disbursement. We have changed our closing procedures to allow more of our security presence, even after our crowd is disbursed, to ensure these other patrons do not gather in front of our establishment. This incident does not warrant revocation of our dance permit.

On 7/21 shirts were still the same

As stated above, the revised shirts were completed on 7/21/2007 and placed in service on that night for X-Fest. The letter of intent does not say whether the 7/21 observation was done after midnight on Friday, when the new shirts were not yet available from the printer, or before midnight on Saturday, when the new shirts were in use. We acted swiftly to correct this concern as soon as it was identified. The situation has been corrected and does not warrant the revocation of our dance permit.

7/21 No observation of Soft Close

Under the conditions of the dance permit, a soft close is authorized but not required. Our closing procedures involve shutting down portions of the facility starting at 1:15 AM in an attempt to begin moving customers out toward their destinations. At 1:50 AM we require patrons to exit the building. This allows us to disburse our customers from the street in the small time window between the crowds created by the closing of the much larger establishments around us. Since there is no requirement for a soft close, and there have been no public safety incidents as a direct result of our procedures, this concern does not warrant the revocation of our dance permit. Previous attempts to implement a soft close procedure have not been successful. We are continuing our discussions with Modesto Police to explore procedures that allow us to do an effective soft close.

7/21 Continued concerns with Re-entry

Pending completion of the permit process for a permanent outside patio, we have negotiated an arrangement with Lt. Cloward to allow patrons to exit the building and remain within the crowd control ropes for the purpose of smoking without being considered "in and out". Patrons who exit the crowd control area must comply with the rules concerning "in and out" privileges. Modesto Police did speak with us about their concerns regarding compliance with re-entry policies. After some discussion they agreed that enforcement of the method we have described provides compliance with the re-entry policy. We are continuing our efforts to obtain a permit for a permanent outside patio which we expect to complete in the next 30-60 days. This incident does not warrant revocation of our dance permit.

Electronic ID system

We are actively working with Tony of Copper Rhino to obtain the necessary software to come on-line with the DED system. Our commitment to complying with this requirement has been demonstrated by our purchase and use of the required hardware on June 26, 2007. We are already electronically scanning IDs as part of our screening process. The only reason we are not already on the system is the failure of the responsible person to provide us with the necessary software. We are actively coming into compliance with this requirement, along with the other establishments in the DED. This concern does not warrant the revocation of our dance permit.

We have noted in the past our objection to the fact that this process is under the control of the manager of an establishment which has a vested interest in the success or failure of other businesses in using the system. We want to renew our request that the control of steps needed for compliance with this requirement be placed with the DED or with Modesto Police.

"Continued Record of Violations"

There has been no record of violations prior to the issuance if the notice of intent. We have regularly met and discussed compliance issues with Modesto Police, but no violation notices have been issued. On August 22, 2007, obviously in conjunction with the Letter of Intent to Revoke, two Administrative Citations were issued each based on a date and incidents identified as violations above. This is our first written notification of any variance to the conditions of our dance permit. The copies of police reports attached to the Notice of Intent to Revoke are the first time we have seen that police reports have been filed regarding our business. All violations occurred on one date. There has been no continued record of violations.

"Refusal to comply with the conditions of your dance permit"

We have taken immediate steps to make the necessary changes to rectify the situation each time Modesto Police has identified a concern to us. At no time have we refused to comply with the conditions of our permit.

Copies of police reports

Quality Tymes was not made aware in a timely manner that police reports had been filled out concerning our business. The two reports attached to the Notice of Intent to Revoke are the first notification we have had of any formal activity by the Modesto Police. One of these reports is over 60 days old and pre-dates the renewal of our dance permit on June 30. The other report is over 30 days old. If these concerns rise to the level of revoking our dance permit, formal notification should have been given so corrective actions could be taken and identified before such drastic punitive action was taken.

Uneven enforcement

Quality Tymes feels the action of revoking our dance permit is an unreasonable response to the history and level of violations noted and our response to them. We are aware of other establishments in downtown who have had multiple violations of building, fire, and ABC regulations who have not had their dance permits revoked. Although several establishments were cited by the ABC during X-fest, dance permits have not been revoked based on those violations. Several establishments have had multiple, well publicized incidents requiring massive Police response and their dance permits have not been revoked.

Quality Tymes has not required massive Police response, excessive oversight, or expenditure of Police resources. However, we have continually been selectively reviewed for our compliance with the regulations without prior citations.

Finally, the Modesto Police have notified the DED that they do not intend to renew dance permits for establishments that hold a type 47 ABC license. This includes Quality Tymes. The ability to provide dining, dancing, and entertainment is a central component to the business plan for our downtown business. There is no provision in the regulations for denying a dance permit based on the type of ABC license.

If overuse of Police resources is a concern, Quality Tymes recommends restriction of permits based on conditions that are identified and not corrected in a timely manner. Furthermore, repeated violent incidents resulting in arrests and expenditure of Police resources should be considered.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-573

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR LANDSCAPING, IRRIGATION AND THE CFD REIMBURSABLE ROSELLE AVENUE IMPROVMENTS FOR THE VILLAGE RANCH UNIT NO. 1 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, CENTEX HOMES, A Nevada General Partnership, is the ("DEVELOPER") of the VILLAGE RANCH UNIT 1 SUBDIVISION ("DEVELOPMENT"), and

WHEREAS, DEVELOPER was to construct a CFD-funded improvements ("CFD-FUNDED IMPROVEMENTS") and all Public Improvements ("IMPROVEMENTS") located within the DEVELOPMENT, and

WHEREAS, the Construction Administration Office, in a memorandum to staff, indicates that said CFD-FUNDED IMPROVEMENTS, which is included in the Acquisition and Shortfall Agreement ("AGREEMENT") between the City of Modesto Community Facilities District No. 2004-1 (Village One #2), a District created pursuant to the provision of the California Government Code Section 53311.5 et. seq. ("DISTRICT") and the DEVELOPER, has been completed to the satisfaction of the Public Works Department, and

WHEREAS, DEVELOPER has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $327,523.00 each, and

WHEREAS, DEVELOPER has filed a warranty bond in the amount of $32,752.30 to guarantee the improvements in the DEVELOPMENT, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept said CFD-FUNDED IMPROVEMENTS and IMPROVEMENTS in said DEVELOPOMENT as complete, and authorize the City Clerk to record a Notice of Completion and to release the securities upon expiration of the statutory periods.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The CFD-funded improvements, which include Roselle Avenue Widening between Kodiak and Floyd per the AGREEMENT, and as shown in the Engineer's Estimate are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for said improvements.
2. The public improvements in the DEVELOPMENT are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.
3. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $327,523 upon recordation of the Notice of Completion.

4. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amounts of $327,523 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

5. The City Clerk is hereby authorized to release the warranty bond to guarantee the improvements in the amount of $32,752.30 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-574

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 budget have been adjusted as shown on the Budget Request form(s).

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, 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
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-575

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH CLEARWIRE LLC, A NEVADA LIMITED LIABILITY COMPANY, FOR THE LEASE OF CELL TOWER SITE IN BEYER PARK FOR CHANGE OF ANTENNAS AT THE SITE AND THE ADDITION OF A TOWER MOUNTED AMPLIFIER (TMA) AND AUTHORIZING THE CITY MANAGER TO SIGN THE AMENDMENT TO AGREEMENT

WHEREAS, on June 7, 2005, by resolution No. 2005-294, Clearwire LLC, a Nevada Limited Liability Company entered into a lease with the City of Modesto for a cellular tower site located on a portion of APN 085-049-016 commonly known as Beyer Park, and

WHEREAS, Clearwire desires to amend the contract to enhance and upgrade the existing antennas at the site and to add a Tower Mounted Amplifier (TMA), and

WHEREAS, City staff concurs with the proposed amendment, with the following additional requirements:

- The hours of the work day correspond to the hours that construction can be done within the City of Modesto. Clearwire is required to check with the City's Building Department for those specific times.
- Clearwire is required to notify City staff of the exact days and times their contractors will be on site so that the City can coordinate their activities that are being conducted at Beyer Park with Clearwire's work needs.
- If there is an interruption in the City's activities where the City would have a loss of revenue, Clearwire and/or its subcontractors would reimburse the City for its loss.
- If there is change/damage to the area that Clearwire is working in, the property must be put back to its original condition. This includes, but is not limited to, plants, trees and hardscape.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Clearwire LLC, for the lease of cell tower site in Beyer Park for change of antennas at the site and the addition of a Tower Mounted Amplifier (TMA), with the above mentioned additional requirements.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-576

A RESOLUTION APPROVING A SIXTY (60) DAY EXTENSION TO A 6-MONTH PROVISIONAL APPOINTMENT FOR CARA GALBRAITH, ADMINISTRATIVE OFFICE ASSISTANT I.

WHEREAS, the Parks, Recreation and Neighborhoods Department has three vacant Parking Maintenance Worker positions, and

WHEREAS, one of these positions was alternate filled and under filled with an Administrative Office Assistant I, and

WHEREAS, Cara Galbraith was provisionally appointed as Administrative Office Assistant I on April 24, 2007, and

WHEREAS, Cara Galbraith was called upon to assist in an out-of-class capacity to assist the Parking Crewleader, and

WHEREAS, the Parks, Recreation and Neighborhoods Department desires to extend the provisional appointment of Cara Galbraith to this position until a successful candidate can be hired in the capacity of Parking Supervisor, and

WHEREAS, Modesto Personnel Rule 7.5 (c) requires Council approval if a provisional appointment is to exceed the six-month period authorized by said rule, and

WHEREAS, staff is requesting that the City Council approve a sixty (60) day extension to this provisional appointment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a sixty (60) day extension to the six-month provisional appointment of Cara Galbraith to the position of Administrative Office Assistant I is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-577

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH BRYCE CONSULTING, INCORPORATED TO CONDUCT A COMPENSATION STUDY OF NON-SWORN POSITIONS WITHING THE CITY IN AN AMOUNT NOT TO EXCEED $53,000 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, the City desires to obtain the services of Bryce Consulting, Incorporated (Bryce Consulting) to conduct a compensation study, and

WHEREAS, the City desires to enter into a Standard Consultant Agreement with Bryce Consulting in the total amount of $53,000 which includes professional fees and expenses, and

WHEREAS, the firm of Bryce Consulting is specially trained, experienced and competent to conduct a compensation study of non-sworn positions within the City, and

WHEREAS, the public interest, economy and general welfare will be served by this agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves a Standard Agreement For Consultant Services with Bryce Consulting, Incorporated to conduct a compensation study of non-sworn positions within the City for an amount not to exceed $53,000.

BE IT FURTHER RESOLVED that the City may request additional work to be performed on an hourly basis for an amount not to exceed $3000.

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

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 2nd of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-578

A RESOLUTION ACCEPTING THE 2007 GANG RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.) PROGRAM GRANT IN THE AMOUNT OF $150,000 FROM THE U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE, FOR TWO POLICE OFFICERS (EXISTING POSITIONS) TO EDUCATE STUDENTS TO REDUCE THEIR INVOLVEMENT IN DELINQUENT BEHAVIOR, VIOLENCE, AND GANG MEMBERSHIP; AND AUTHORIZING THE POLICE CHIEF TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain Program designated as the 2007 Gang Resistance Education and Training (G.R.E.A.T.) Program to be funded in part by a grant from the U.S. Department of Justice, Bureau of Justice Assistance, and

WHEREAS, said $150,000 Program grant will fund 75% of the cost of two full-time Police Officers to educate middle school and elementary school students to reduce their involvement in delinquent behavior, violence, and gang membership, and

WHEREAS, $78,244 will be appropriated from the General Fund reserves to fund 25% of the cost of two full-time Police Officers to educate middle school and elementary school students to reduce their involvement in delinquent behavior, violence, and gang membership, and

WHEREAS, said Program grant will fund 5% of an existing Police Sergeant's position to oversee the G.R.E.A.T. Program, and

WHEREAS, said Program grant will also fund one temporary part-time Police Clerk ($8,635),

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the 2007 Gang Resistance Education and Training (G.R.E.A.T.) Program grant in the amount of $150,000 from the U.S. Department of Justice, Bureau of Justice Assistance.

BE IT FURTHER RESOLVED that the Police Chief is hereby authorized to execute the necessary program documents, including any extentions, amendments, or subsequent contracts with the U.S. Department of Justice, Bureau of Justice Assistance in relation thereto.

BE IT FURTHER RESOLVED that the grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-579

A RESOLUTION AMENDING THE FISCAL YEAR 2007/08 OPERATING BUDGET, ESTIMATING REVENUE OF $150,000 FOR THE 2007 GANG RESISTANCE EDUATION AND TRAINING (G.R.E.A.T.) PROGRAM.

WHEREAS, the Police Department acquired a program award in the sum of $150,000 from the U.S. Department of Justice, Bureau of Justice Assistance for two full-time police officers to educate students to reduce their involvement in delinquent behavior, violence, and gang membership, and

WHEREAS, the Program pays 75% of the cost of two full-time Police Officers and 25% will be paid by the City of Modesto, and

WHEREAS, the Program pays for 5% of an existing Police Sergeant's position to oversee the G.R.E.A.T. Program, and

WHEREAS, the Program pays for a temporary part-time Police Clerk ($8,635), and

WHEREAS, the City match for the G.R.E.A.T. Program is $78,244 which will be transferred from the General Fund, and

WHEREAS, this grant is multi-year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2007/2008 Operating Budget is hereby amended as indicated below to initiate said Program:

	Expense:		
To:	0410-190-2908-0110	$129,505	Salaries
	0410-190-2908-0140	8,635	Part-time
	0410-190-2908-0188	74,594	Fringe Benefits
	0410-190-2908-0209	2,470	Training
	0410-190-2908-0301	13,040	Office Supplies
	Total	$228,244	
	Revenue:		
To:	0410-190-2908-3508	$150,000	Federal Program – G.R.E.A.T.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-580

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE PROJECT ENTITLED "SYLVAN/ROSELLE INTERSECTION IMPROVEMENTS" FROM 8 PERCENT ($225,599.38) TO 10 PERCENT ($281,999.22) OF THE ORIGINAL CONTRACT PRICE WITH TEICHERT CONSTRUCTION.

WHEREAS, on July 5, 2006 by Resolution No. 2006-422, the City Council awarded a $2,819,992.25 contract to Teichert Construction to construct the "Sylvan/Roselle Intersection Improvements" project, and

WHEREAS, the contractor started work on August 1, 2006, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the new roundabout, and

WHEREAS, the cost of the extra work was estimated to be as high as $232,412.82, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $225,599.38,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the project entitled "Sylvan/Roselle Intersection Improvements" from 8 percent ($225,599.38) to 10 percent ($281,999.22) of the original contract price with Teichert Construction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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 _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-581

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH HARRIS & ASSOCIATES FOR CONSTRUCTION MANAGEMENT SERVICES OF THE COLLECTION SYSTEM REHABILITATION 2006 PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $19,970.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on January 9, 2007, by Resolution No. 2007-060, Council awarded the Collection System Rehabilitation 2006 project to D.A. Wood Construction, and

WHEREAS, due to staffing levels, on February 13, 2007, by Resolution No. 2007-117, Council approved an Agreement for Construction Management Services with Harris & Associates to manage the sewer rehabilitation project, and

WHEREAS, this project replaced the sanitary sewer pipelines on various streets throughout the City due to aging pipes that are high maintenance either because of root intrusion, cracked pipe, or damaged pipe joints, and

WHEREAS, construction contract work is nearing completion, and

WHEREAS, fifteen (15) discrepancies were noted from closed circuit TV inspection by the City's Water Quality Control Center, and

WHEREAS, the contractor disputes that all 15 are legitimate discrepancies, and

WHEREAS, the contractor has submitted a $74,000 extra work claim for change of site conditions at Bonita Avenue, and

WHEREAS, while replacing the sewer lines on Bonita Avenue the contractor claims that the sandy soils encountered made the replacement labor and equipment intensive, and

WHEREAS, in September of 2007, Harris & Associates submitted a revised fee and scope for Construction Management Services of Collection System Rehabilitation 2006 in the amount of $19,970, and

WHEREAS, Harris & Associates will help to bring the claim and discrepancies to resolution, and

WHEREAS, Harris & Associates is well qualified to perform Construction Management Services and is a respected firm that has provided Construction Management Services for a variety of prior City projects in a satisfactory manner, and

WHEREAS, Harris & Associates' construction manager, has over 25 years of experience managing construction projects, and has successfully managed the Modesto 9th Street Bridge project, and has completed the Sylvan Avenue Pedestrian Overcrossing, and

WHEREAS, City staff recommends that the Agreement for Construction Management Services with Harris & Associates be amended to oversee corrective work and resolve the extra work claim, due to current staffing levels, and

WHEREAS, an Amendment to Agreement for Construction Management Services with Harris & Associates for a revised scope of work related to the Collection System Rehabilitation 2006 project in the not-to-exceed amount of $19,970 is necessary in order to complete the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement for Construction Management Services with Harris & Associates for a revised scope of work related to the Collection System Rehabilitation 2006 project in the not-to-exceed amount of $19,970.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-582

A RESOLUTION APPROVING THE CONTINUATION OF IMPLEMENTING THE EXISTING OUTSIDE SERVICE AGREEMENTS (OSAs), PURSUING OSAs WITH THE REMAINING PROPERTIES REQUIRED TO ENTER INTO OSAs PER THE NORTH MCHENRY TAX SHARING AGREEMENT, AND DIRECTING STAFF TO EXPAND THE BOUNDARIES OF THE RECOMMENDED ANNEXATION AREA TO INCLUDE NOT ONLY THE NORTH MCHENRY TAX SHARING AGREEMENT AREA, BUT ALSO LOGICAL ADJOINING AREAS WITH APPROPRIATE PLANNING DESIGNATIONS.

WHEREAS, on December 8, 1998, by Resolution No. 98-659, the City of Modesto and the County of Stanislaus entered into an agreement subsequently referred to as the North McHenry Tax Sharing Agreement (Agreement), and

WHEREAS, this Agreement remains in effect and covers property on the east and west side of McHenry Avenue from Standiford/Sylvan to the south and Kiernan Avenue/Claribel Road to the north including both incorporated properties and unincorporated properties, and

WHEREAS, a report on the Agreement and the "gaps" in Outside Service Agreements (OSAs) for this area was presented to the City Council on June 6, 2006, and

WHEREAS, in the Council report, it was determined that several properties in the Agreement area were receiving water service without having an executed OSA, and

WHEREAS, Council directed staff to continue collecting business license fees and utility taxes from the four existing businesses in the Agreement area and to place the revenue in a protest account separate from the General Fund until negotiations were completed with the County, and

WHEREAS, Council directed staff provide an update on the OSAs for properties and businesses in the Agreement area and to pursue annexation of the area, and

WHEREAS, a subsequent report was prepared for presentation to Council in August 2006; however, this was continued to allow staff to meet with business owners in the North McHenry area, and

WHEREAS, staff researched tax generation from various businesses in the Agreement area to provide accurate data, and this required staff to use comparisons between businesses within the City and outside the City, which was more complex than initially anticipated, and

WHEREAS, staff researched records through the County Recorder's Office database, the City Attorney's Office, and the City Clerk's Office to determine if there were any OSAs or other agreements not discovered prior to the June 6, 2006 report:

1) Initially, it appeared there were 25 businesses/properties required to enter into OSAs; of the 25, two are exempt due to non-profit status and two have current OSAs (Mistlin Honda and Grand Events/Enterprise Rent-a-Car);
2) Nine other businesses were exempted from the Agreement because of a pre-existing agreement between City and Berberian family executed in 1990; and
3) Excluding the properties exempted under the Berberian Agreement, there are 12 businesses required to enter into an OSA with City,

and

WHEREAS, the Finance Committee, at its August 15, 2007 meeting, approved staff's recommendation to continue implementation of the existing OSAs and pursue the businesses required to enter into OSAs per the Agreement, and

WHEREAS, the Committee requested that the boundaries of the recommended annexation be expanded to include not only the Agreement area, but also logical adjoining areas with appropriate planning designations, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the continuing of implementation of the existing Outside Service Agreements in the North McHenry Tax Sharing Agreement Area.

BE IT FURTHER RESOLVED that the Council hereby approves pursuing Outside Service Agreements with the remaining properties required to enter into Outside Service Agreements per the North McHenry Tax Sharing Agreement.

BE IT FURTHER RESOLVED that the Council hereby directs staff to expand the boundaries of the recommended annexation area to include not only the North McHenry Tax Sharing Agreement area, but also logical adjoining areas with appropriate planning designations.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST:

Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-583

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CANVASSING THE RESULTS OF THE OCTOBER 2, 2007, ELECTION HELD WITHIN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-2 (KIERNAN BUSINESS PARK WEST)

WHEREAS, this Council is conducting proceedings pertaining to the formation of City of Modesto City's Community Facilities District No. 2007-2 (Kiernan Business Park West) (the "District"), the establishment of an appropriations limit for the District, and the levy of a special taxes sufficient to pay all costs necessary to finance certain Facilities and Services, as described in the City's Resolution No. 2007-484, adopted on August 14, 2007.

WHEREAS, the owners of all of the property in the District waived those provisions related to the timing and conduct of the election referenced in Sections 13 and 14 of this Council's Resolution No. 2007-484 and Sections 9, 10 and 11 of this Council's Resolution No. 2007-484, each adopted on August 14, 2007, and, as a result, this Council called an election within the District (the "Election") for September 25, 2007, relative to the foregoing; and

WHEREAS, consultant to the City has recommended that the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-484, be revised to include an enforcement provision. This revision does not increase either the maximum special taxes or the probable special taxes to be paid by the owner of any lot or parcel; and

WHEREAS, on September 25, 2007, the Election was held; and

WHEREAS, the City Clerk has certified that the proposition of levying the special taxes and establishing an appropriations limit for the District was approved by at least two-thirds (2/3) of the votes cast at the Election;

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND, by the City Council of the City of Modesto, that:

1. The Election was duly and validly conducted in conformity with all applicable laws, rules and regulations pertaining thereto. It is hereby determined that the owners of the property in the District is as set forth in the Affidavit of City Clerk as to Distribution of Official Ballots, submitted to this Council and on file with the City Clerk.

2. The ballot proposition presented to the qualified electors of the District at the Election received at least two-thirds (2/3) of the votes cast at the Election. A copy of the City Clerk's certificate of election results is attached hereto as **Exhibit A.**

3. The City Clerk is directed to enter this resolution on the minutes of this City Council, which shall constitute the official declaration of the result of such election.

4. The City Clerk is further authorized and directed to record a notice of special tax lien with the County Recorder of the County of Stanislaus, within 15 days from the date hereof, in accordance with the provisions of Section 3114.5 of the California Streets and Highways Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

CERTIFICATE OF CITY CLERK

I, JEAN MORRIS, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2007-583, the Resolution of Formation, adopted on October 2, 2007 by the City Council of the City of Modesto, I did conduct a Special Tax for City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) on October 2, 2007, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

I further certify that the following shows the full text of the measure submitted to the voters at the election and the full and true totals of all votes cast for and against the measure.

Proposition A. Shall an appropriations limit in the amount of $130,600 per fiscal year be established for City of Modesto Community Facilities District No. 2007-2 (the "District") of the City of Modesto ("the City"), and shall special taxes with the rates, method of apportionment, and manner of collection as provided in Exhibit A to the City's Resolution No. 2007-484 (the "Resolution of Intention") adopted by the City Council of the City of Modesto on August 14, 2007, including any amendments thereto up to, and including the election date, which are incorporated herein by this reference, be levied within the District in order to finance certain public facilities (the "Facilities") as set forth in the Resolution of Intention and services (the "Services") also set forth in the Resolution of Intention, including any incidental expenses related thereto?

TOTAL VOTES CAST: YES 76 NO 0

Jean Morris

Jean Morris
City Clerk of the City of Modesto
Dated: 10/5, 2007

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-584

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO OF FORMATION, ESTABLISHING CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-2 (KIERNAN BUSINESS PARK WEST), AUTHORIZING THE LEVY OF SPECIAL TAXES WITHIN THE DISTRICT, PRELIMINARILY ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE DISTRICT, CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE SPECIAL TAXES AND ESTABLISHING THE APPROPRIATIONS LIMIT TO THE QUALIFIED ELECTORS OF THE DISTRICT

WHEREAS, the City Council (the "Council"), did, on August 14, 2007, adopt Resolution No. 2007-484, entitled "A Resolution of the City Council of the City of Modesto of Intention to Establish City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) and Authorize the Levy of Special Taxes Therein" stating its intention to establish its City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) (the "District"), and levy special taxes therein, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"), and

WHEREAS, Resolution No. 2007-484 (1) describing the proposed boundaries of the District, the name of the District, and the types of facilities (the "Facilities") and services (the "Services") proposed to be financed by the District, (2) providing that, except where funds are otherwise available to pay for the Facilities to be financed by the District, including the incidental expenses thereof, special taxes sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied within the boundaries of the District, (3) specifying the rate, method of apportionment, and manner of collection of the special taxes in sufficient detail to allow each landowner or resident

within the proposed District to estimate the maximum amount that he or she will have to pay, and (4) setting a hearing thereon, is incorporated herein by this reference, and

WHEREAS, notice of the hearing was duly published as required by law, as evidenced by the affidavit of publication on file with the City Clerk, and

WHEREAS, at the time and date set for the hearing, September 25, 2007, the Council opened the public hearing and continued it to October 2, 2007, and

WHEREAS, at the time and date set for the continued public hearing, the Council held the public hearing, as required by the law relative to the proposed formation of the District, the levy of the special taxes, and all other matters set forth in Resolution No. 2007-484, and

WHEREAS, at least 15 days prior to the hearing, a map of the proposed boundaries of the District, entitled "Boundary Map of City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West)" (the "Boundary Map") was recorded pursuant to Section 3111 of the California Streets and Highways Code in the office of the County Recorder of the County of Stanislaus, in Book 4 of Maps of Assessment and Community Facilities Districts, at page 96, and

WHEREAS, prior to the hearing a report (the "Report") containing a description of the Facilities and Services required to adequately meet the needs of the District and an estimate of the cost of providing the Facilities and Services, including, to the extent the purchase of completed Facilities or the payment of incidental expenses is proposed, the estimated fair and reasonable cost thereof, was filed with the Council as a part of the record of the hearing and duly considered by this Council, and

WHEREAS, consultant to the City has recommended that the rate and method of special taxes, attached as Exhibit A to Resolution No. 2007-484, be revised to reflect the

reduction in reimbursement of costs associated with the construction of certain street improvements within Healthcare Way. This revision does not increase either the maximum special taxes or the probable special taxes to be paid by the owner of any lot or parcel, and

WHEREAS, at the hearing all persons desiring to be heard on all matters pertaining to the formation of the District, the levy of the special taxes, and all other matters set forth in Resolution No. 2007-484, including all interested persons or taxpayers for or against the establishment of the District, the extent of the District, or the furnishing of specific type or types of Facilities or Services, were heard and considered, and a full and fair hearing was held thereon, and

WHEREAS, at the hearing evidence was presented to the Council on the matters before it, and the Council, at the conclusion of the hearing, was fully advised as to all matters relating to the formation of the District, the levy of the special taxes, and all other matters set forth in Resolution No. 2007-484, and

WHEREAS, written protests against the establishment of the District, the furnishing of specified type or types of Facilities and Services within the District as listed in the Report, or the levying of the special taxes, have not been filed with the City Clerk by fifty percent (50%) or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the District, or the owners of one-half (1/2) or more of the area of land in the territory proposed to be included in the District and not exempt from this special taxes, and

WHEREAS, the Stanislaus County Registrar of Voters has certified there are less than twelve (12) registered voters residing in the District; accordingly, the qualified electors in the District are the landowners, and

WHEREAS, the City Clerk has concurred in the election date herein set forth for the election herein called,

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The proposed special taxes to be levied in the District have not been precluded by majority protest pursuant to Section 53324 of the Act. All protests (there were none) to the establishment of the District, the extent thereof, or the furnishing of the Facilities and Services proposed therefore, or the levy of the special taxes proposed to be levied in the District, are hereby overruled.

SECTION 3. As proposed in Resolution No. 2007-484, a community facilities district is hereby established pursuant to the Act, designated "City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West)," the boundaries of which are shown on the Boundary Map.

SECTION 4. (a) The Facilities to be financed by the District are set forth in **Exhibit B** attached hereto and by this reference incorporated herein. The Facilities are public facilities having a useful life of five years or longer.

(b) The Facilities are necessary to meet the increased demands placed upon the City and other local agencies operating within the area of the District as a result of development occurring in the District.

(c) No land within the District is devoted primarily to agricultural, timber or livestock uses or is being used for the commercial production of agricultural, timber or livestock products.

SECTION 5. (a) The Services to be financed by the District are set forth in Exhibit B attached hereto and by this reference incorporated herein. The proposed Services are governmental services which the City is authorized by law to provide since they are in addition to those provided in the territory of the District before the District was created.

(b) The Services are necessary to meet the increased demands placed upon the City and other local agencies operating within the area of the District as a result of development occurring in the District.

SECTION 6. The Report related to the Facilities and Services shall be a part of the record in these proceedings. For purposes hereof, the Report shall refer to the Report as modified, amended, revised or corrected pursuant to and in accordance with any resolution or order heretofore adopted or made by this Council.

(a) As stated in Resolution No. 2007-484, except where funds are otherwise available, it is the intention of this Council, subject to the approval of the qualified electors of the District, to levy special taxes sufficient to pay for the Facilities to be financed by the District, the Services to be financed by the District, and to pay incidental expenses related thereto, secured by recordation of a continuing lien against all nonexempt real property in the District.

(b) The rate, method of apportionment, and manner of collection of the special taxes, in sufficient detail to allow each landowner or resident within the District to estimate the maximum amount that he or she will have to pay, is described in **Exhibit A** attached hereto and by this reference incorporated herein.

(c) There is no ad valorem property tax currently being levied on property within the District for the exclusive purpose of making lease payments or paying principal or

interest on bonds or other indebtedness incurred to finance the construction of capital facilities which are the same the Facilities to be financed by the District.

(d) Any reimbursement made to the District pursuant to Section 53313.5(e) of the California Government Code shall be utilized to reduce or minimize the special taxes levied within the District or to finance additional Facilities within the District.

(e) The special taxes as apportioned to each parcel pursuant to Exhibit A is based on the cost of making the Facilities and Services available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

(f) Pursuant to Section 53314.9 of the Act, this Council may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work-in kind for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the District.

SECTION 7. The description of the proposed voting procedure, as set forth in Resolution No. 2007-484, is incorporated herein by this reference, and shall be the voting procedure to be used in these proceedings.

SECTION 8. The District Administrator is hereby designated as the office, department or bureau which will be responsible for annually preparing the current roll of special tax levy obligations by assessor's parcel number on nonexempt property within the District and which will be responsible for estimating future special tax levies. The name, addresses, and telephone number of the office of the District Administrator, and the person responsible for administering the District, is as follows:

District Administrator
City of Modesto
Tenth Street Place
P.O. Box 642
Modesto, California 95353
(209) 577-5211

Such officer is hereby directed to establish procedures to promptly respond to inquiries concerning current and future estimated tax liability pursuant to Section 53340.2 of the Act.

SECTION 9. Upon a determination by this Council, after the canvass of the returns of the election contemplated in Sections 13 and 14 hereof, that at least two-thirds (2/3) of the votes cast upon the question of levying the special taxes were in favor thereof, the City Clerk shall record the notice of special tax lien provided for in Section 3114.5 of the California Streets and Highways Code. Upon recordation of the notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special taxes shall attach to all nonexempt real property in the District, and this lien shall continue in force and effect until collection of the special taxes by this Council ceases, or, in the case of the Annual Facilities Special Tax Component of the special taxes (as defined in Exhibit A), the obligation to pay that component of the special taxes is prepaid and permanently satisfied and the lien thereof cancelled in accordance with the Act.

SECTION 10. All prior proceedings taken with respect to the establishment of the District were valid and in conformity with the requirements of the Act.

SECTION 11. In accordance with Section 53325.7 of the Act, the annual appropriations limit of the District, as defined by subdivision (h) of Section 8 of Article XIIIB of the California Constitution, is hereby preliminarily established at $500,000, and this annual appropriations limit shall be submitted to the voters of the District as hereafter provided. The

proposition establishing the appropriations limit shall become effective if approved by the qualified electors voting thereon and shall thereafter be adjusted in accordance with the applicable provisions of Section 53325.7 of the Act.

SECTION 12. (a) This Council hereby calls a special election and submits the question of levying the special taxes, and the establishment of the annual appropriations limit for the District in connection therewith, to the qualified electors within the District, in accordance with and subject to the Act, the terms of which shall, unless waived as herein provided, be applicable to such election.

(b) Fewer than twelve (12) persons have been registered to vote within the territory of the District for each of the ninety (90) days preceding the close of the hearing referenced herein. Accordingly, for the purposes of these proceedings, the qualified electors shall be the landowners within the District. The vote shall be by such landowners, or their authorized representatives, each having one vote for each acre or portion thereof that such landowner owns in the District as of the close of the hearing; and the ballots for the special election shall be distributed by mail with return postage prepaid or by personal service to each such landowner, all as provided in Section 53326 of the Act.

(c) The Council hereby designates the City Clerk, and the City Clerk hereby agrees to serve, as the election official to conduct the election. The shortening of the election as herein provided has been concurred in by the City Clerk.

(d) If the City Clerk receives appropriate waivers of time limits and other requirements pertaining to the conduct of the election by all of the owners of land included in the District (collectively, the "Landowners") on or before the 2nd day of October 2007, the election

shall be held on the 2nd day of October 2007. Otherwise, the election shall be held on the first Tuesday after that date which is 90 days after the date this Resolution is adopted.

(e) Unless waived by the Landowners, there shall be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in Section 53327 of the Act. The election shall be conducted by the City Clerk in the manner required by this Resolution, the Act and applicable laws.

(f) Unless waived by the Landowners, the City Clerk shall publish this Resolution as notice of the special election.

SECTION 13. If two-thirds (2/3) of the votes cast upon the question of levying the special tax are cast in favor of levying the special taxes, as determined by this Council after the canvass of the returns of the consolidated election, this Council may levy the special taxes within the District in the amount and for the purposes specified in this Resolution. The special taxes may be levied only at the rate and may be apportioned only in the manner specified in this Resolution, subject to the Act, except that the special taxes may be levied at a lower rate.

SECTION 14. The City Clerk, as the designated election official, shall, within three business days after the adoption of this Resolution, obtain a certified copy thereof. The City Clerk has previously been provided with a map of the boundaries of the District, a sufficient description from which to determine the boundaries of the District, and the assessor's parcel numbers for the land within the District.

SECTION 15. The Council hereby determines that the formation of the proposed District is the creation of a government funding mechanism which is not a project under the provisions of C.E.Q.A. pursuant to Section 15378(b)(4) of the C.E.Q.A. guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-2
(KIERNAN BUSINESS PARK WEST)

AMENDED AND RESTATED
RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2007-2 (Kiernan Business Park West) [herein "CFD No. 2007-2" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-2, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-2 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-2, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

"Annual Maintenance Special Tax Requirement" means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or

(based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2007-2.

"CFD Formation" means the date on which the Resolution of Formation to form CFD No. 2007-2 was adopted by the City Council.

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-2.

"County" means the County of Stanislaus.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a structure. The term "Final Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"**Maximum Annual Maintenance Special Tax**" means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"**Maximum One-Time Facilities Special Tax**" means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Special Taxes" means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

"Net Taxable Acreage" or **"Net Taxable Acre"** means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the

Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"One-Time Facilities Special Tax" means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

"Original Parcel" means an Assessor's Parcel included in CFD No. 2007-2 at the time of CFD Formation or added to the CFD upon annexation. Assessor's Parcels included in the CFD at the time of CFD Formation and an Assessor's Parcel expected to annex into the CFD are identified in Attachment 1 hereto. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

"Proportionately" means that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Taxable Property.

"Public Property" means any property within the boundaries of CFD No. 2007-2 that is owned by the federal government, State of California, County, City, or other public agency.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

"Subdivision Map" means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a structure is permitted.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2007-2 which are not exempt from the Special Tax pursuant to law or Section G below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-2 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall determine (i) the current Assessor's Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-2, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

C. MAXIMUM SPECIAL TAXES

1. Original Parcels

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

TABLE 1
MAXIMUM SPECIAL TAXES
FISCAL YEAR 2007-08

Assessor's Parcel Number	*Fiscal Year 2007-08 Maximum One-Time Facilities Special Tax**	*Fiscal Year 2007-08 Maximum Annual Maintenance Special Tax**
078-013-006	$ 65,316	$ 2,539
078-013-018	$ 5,059	$ 197
078-013-035	$ 0	$ 93,880
078-013-037	$ 145,718	$ 5,665

** Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.*

2. Successor Parcels

Upon recordation of a Subdivision Map that subdivides an Original Parcel, the Administrator shall allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels by applying the following steps:

Step 1: Determine the total combined Net Taxable Acreage within all Successor Parcels created from subdivision or reconfiguration of the Original Parcel.

Step 2: Divide the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the Net Taxable Acreage determined in Step 1 to determine a Maximum One-Time Facilities Special Tax and a Maximum Annual Maintenance Special Tax per Net Taxable Acre.

Step 3: Multiply the Maximum Special Taxes per Net Taxable Acre determined in Step 2 by the Net Taxable Acreage of each Successor Parcel of Taxable Property to determine the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Original Parcel's Maximum Special Tax shown in Table 1, escalated to the current Fiscal Year pursuant to Section D below.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2008 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be increased by an amount equal to four percent (4.0%) of the amount in effect for the prior Fiscal Year. Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Annual Maintenance Special Tax

Beginning in January 2008 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2007-2 and shall be collected as set forth in Section F below.

2. Annual Maintenance Special Tax

Each Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Taxable Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year.

Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any structure on Taxable Property within CFD No. 2007-2, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2007-2 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Maintenance Special Taxes through foreclosure or other available methods. The Annual Maintenance Special Tax shall be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services and all Administrative Expenses have been reimbursed.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property except Taxable Public Property, as defined herein.

H. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.

I. ENFORCEMENT

All delinquent One-Time Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1.5 % as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

ATTACHMENT 1
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-2
(KIERNAN BUSINESS PARK WEST)

SUMMARY OF ORIGINAL PARCELS AND MAXIMUM SPECIAL TAXES

Assessor's Parcel Number	*Acreage*	*Fiscal Year 2007-08 Maximum One-Time Facilities Special Tax**	*Fiscal Year 2007-08 Maximum Annual Maintenance Special Tax**
078-013-006	7.23	$ 65,316	$ 2,539
078-013-018	0.56	$ 5,059	$ 197
078-013-035	49.43	$ 0	$ 93,880
078-013-037	16.13	$ 145,718	$ 5,665
078-013-040 **	14.91	$ 158,098	$ 28,318

* Maximum Special Taxes are subject to the annual adjustments described in Section D of the RMA.

** This Parcel is not included in the CFD at the time of CFD Formation. The Maximum Special Tax shall apply to this Parcel upon annexation into the CFD.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-585

A RESOLUTION APPROVING A GRANT APPLICATION FOR $1,956,525 FOR THE CALIFORNIA RIVER PARKWAYS GRANT PROGRAM UNDER THE WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002 (PROPOSITION 50), AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the Legislature and Governor of the State of California have provided funds for the California River Parkways program (the Grant Program), and

WHEREAS, the Resources Agency has been delegated the responsibility for the administration of this grant program establishing necessary procedures, and

WHEREAS, the said procedures established by the State Resources Agency require a resolution certifying the approval of application by the City of Modesto City Council before submission of this application to the State, and

WHEREAS, the City of Modesto if selected, will enter an agreement with the State of California to carry out the linear walkway within the Tuolumne River Regional Park Gateway Project (the Project),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby:

1. Approves the filing of an application for the linear walkway within the Tuolumne River Regional Park Gateway Project, and

2. Certifies that the City of Modesto will have sufficient funds to operate and maintain the project consistent with the land tenure requirements, and

3. Certifies that it will comply with the provisions of Section 1771.8 of the State Labor Code regarding payment of prevailing wages on Projects awarded with Proposition 50 funds, and

4. Certifies that the Project will comply with any laws and regulations including, but not limited to, legal requirements for building codes, health and safety codes, disabled access laws, and, that prior to commencement of construction, all applicable permits will have been obtained, and

5. Appoints the City Manager or his designee, as agent to conduct all negotiations, execute and submit all documents including but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-586

A RESOLUTION AUTHORIZING THE PURCHASE OF MODULAR OFFICE AND COMMUNITY ROOM FURNITURE, FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, BY ACCESSING THE TERMS OF A COMPETITIVELY BID CONTRACT FROM THE COUNTY OF STANISLAUS, CONTRACT NO. 16091802, TO KELLER OFFICE ENVIRONMENTS, FOR AN ESTIAMTED TOTAL COST OF $45,000; AND FURTHER AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR THE PURCHASE OF THE MODULAR OFFICE AND COMMUNITY ROOM FURNITURE

WHEREAS, the Neighborhood Center at Marshall Park combines Fire, Police, and Parks, Recreation and Neighborhoods Department activities in one service center location, and

WHEREAS, construction for the Neighborhood Center at Marshall Park began last year, and is expected to be completed by December 2007, and

WHEREAS, modular office and community room furniture will be purchased through a competitively bid contract from the County of Stanislaus which will include miscellaneous task chairs, meeting room furniture, partitions, desk chairs, and a few corner desk units, and

WHEREAS, by accessing the terms f a competitively bid contract from the County of Stanislaus or "piggybacking", the City of Modesto will save time and money, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid; however, there are exceptions to the rule set forth in Section 8-3.204 (d) of the Modesto Municipal Code, and

WHEREAS, MMC Section 8-3.204 (d), states "Where the Purchasing Manager, in his or her discretion, determines that a process other than the usual formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality", and

WHEREAS, the Purchasing Manager, acting within his discretion, invoked this exception for the purchase of office and community room furniture, by accessing the terms of a competitively bid contract from the County of Stanislaus, Contract No. 16091802, to Keller Office Environments, Modesto, CA ,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the purchase of modular office and community room furniture for the Parks, Recreation and Neighborhoods Department by accessing the terms of a competitively bid contract from the County of Stanislaus, Contract No. 16091802, to Keller Office Environments, for an estimated total cost of $45,000.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for the purchase of the modular office and community room furniture.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-587

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE AND AWARD INFORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF EQUIPMENT (DEFINED IN TWO GROUPS) FOR THE NEIGHBORHOOD CENTER AT MARSHALL PARK, FOR AN ESTIMATED TOTAL COST OF $25,000; AND FURTHER AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE ORDRES TO THE SELECTED VENDORS

WHEREAS, the Neighborhood Center at Marshall Park combines Fire, Police, and Parks, Recreation and Neighborhoods Department activities in one service center location, and

WHEREAS, construction for the Neighborhood Center at Marshall Park began last year, and is expected to be completed by December 2007, and

WHEREAS, the fitness room will service not only the fitness requirements of the Fire and Police personnel, but will also be open to the public on certain days/hours, and

WHEREAS, the items listed below are needed to furnish the Neighborhood Center at Marshall Park for utilization by its tentative opening date of mid-December,

Group 1	Item	Unit	Quantity
Fitness Equipment	Treadmill	Each	1
	Elliptical Fitness Cross trainer	Each	1
	5 Weight Stack Multi Gym with Seated Leg Press	Each	1
	Deluxe Multi Bench	Each	1
	Dumbbell Rack	Each	1
	Plate Holders	Each	1
	Dumbbell Set 5-100 lbs.	Set	1
	Olympic Bar	Each	1
	Plate Set 500 lb.	Set	2
	Vinyl Mat Treadmill	Each	1
	Vinyl Mat Bike/stepper	Each	1

Group 2	Item	Unit	Quantity
Electronic Equipment	42" Plasma TV	Each	1
	24" Plasma TV	Each	2
	Tilt Wall Mount for 42" Plasma TV	Each	1
	DVD Player	Each	3
	Rolling Service Cart	Each	2

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the purchase of equipment (defined in two groups) for the Neighborhood Center at Marshall Park, for an estimated total cost of $25,000.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to take the necessary steps to issue purchase orders to the selected vendors.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-588

A RESOLUTION ACCEPTING THE WORK BY TNT INDUSTRIAL CONSTRUCTION, INC., FOR THE PROJECT TITLED "TWIN PONDS PUMP STATIONS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,684,707.25

WHEREAS, a report has been filed by the Public Works Director that the project titled "Twin Ponds Pump Stations" has been completed by TNT Industrial Construction, Inc., in accordance with the contract agreement dated March 7, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Twin Ponds Pump Stations" is hereby accepted as complete from said contractor, TNT Industrial Construction, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $1,684,707.25 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-589

A RESOLUTION ACCEPTING THE WORK BY RICHARD A. HEAPS ELECTRICAL CONTRACTOR, INC., FOR THE PROJECT TITLED "TRAFFIC SIGNAL INSTALLATION AT 16TH AND J STREETS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $159,361.76

WHEREAS, a report has been filed by the Public Works Director that the project titled "Traffic Signal Installation at 16th and J Streets" has been completed by Richard A. Heaps Electrical Contractor, Inc., in accordance with the contract agreement dated January 23, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Traffic Signal Installation at 16th and J Streets" is hereby accepted as complete from said contractor, Richard A. Heaps Electrical Contractor, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $159,361.76, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-590

A RESOLUTION ACCEPTING THE WORK BY R.L. DAVIS CONSTRUCTION CO., INC., FOR THE PROJECT TITLED "PUMP STATION FOR WELL 62 AT FREEDOM PARK" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $647,543.63

WHEREAS, a report has been filed by the Public Works Director that the project titled "Pump Station for Well 62 at Freedom Park" has been completed by R.L. Davis Construction Co., Inc., in accordance with the contract agreement dated September 13, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Pump Station for Well 62 at Freedom Park" is hereby accepted as complete from said contractor, R.L. Davis Construction Co., Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $647,543.63 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-591

A RESOLUTION APPROVING THE COOPERATIVE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR THE PLANNING AND CONSTRUCTION OF THE PROJECT TITLED "DALE ROAD/KIERNAN ROAD (STATE ROUTE 219) IMPROVEMENTS" AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, continued growth in northern Modesto and Stanislaus County have increased traffic volume at the Dale Road/Kiernan Road intersection, and

WHEREAS, the increased traffic has reduced the level of service of the existing intersection, and

WHEREAS, the intersection serves both City and County residents, and

WHEREAS, the intersection lies on the border between the City and the County, and

WHEREAS, the City and State desire to reduce congestion and delays at the Dale Road/Kiernan Road intersection by widening the intersection, and

WHEREAS, the proposed project is to be completed under a Cooperative Agreement between the City of Modesto and the California Department of Transportation and will consist of widening Dale Road at State Route 219 and modifying signals, signs and striping, and

WHEREAS, the anticipated project funding is to be budgeted in CIP account 2370-430-H930 "Dale Rd/Kiernan Intersection Improvements" as follows: CITY: Local Matching Funds + Kaiser Mitigation $1,770,000; FEDERAL: Demonstration Funds $2,240,000; CMAQ: Congestion Mitigation for Air Quality (CMAQ) $320,000; STATE: Transportation Improvement Program (STIP) $2,770,000; for a total estimated project cost of $7,100,000, and administered by the City, and

WHEREAS, the City will be the lead in completing the design, approval, bidding and inspection for the proposed improvements, and

WHEREAS, an Agreement is needed between the California Department of Transportation and the City of Modesto for the planning and construction of the project titled "Dale Road/Kiernan Intersection (State Route 219) Improvements,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Cooperative Agreement between the City of Modesto and the California Department of Transportation (Caltrans) for the planning and construction of the Project titled "Dale Road/ Kiernan Intersection (State Route 219) Improvements."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-592

A RESOLUTION AUTHORIZING STAFF TO SOLICIT COMPETITIVE PROPOSALS FOR A NEW MODESTO AREA DIAL-A-RIDE (MADAR) CONTRACT AND TO COMBINE THE MADAR PROCUREMENT WITH THE CITY OF CERES AND COUNTY OF STANISLAUS TRANSIT OPERATIONS CONTRACT PROCUREMENTS.

WHEREAS, on June 3, 2003, by Resolution No.2003-270 the City entered into an agreement with Storer Transit Systems to operate the Modesto Area Dial-a-Ride paratransit service, and

WHEREAS, said agreement is due to expire on June 27, 2008, and

WHEREAS, a new contract is necessary to replace the contract that will expire, and

WHEREAS, solicitation of proposals through the use of a request for proposals (RFP) process is the best method of selecting a new contractor, and

WHEREAS, the City of Ceres and the County of Stanislaus transit operation contracts en on approximately the same date as Modesto, and

WHEREAS, a joint solicitation with the City of Ceres and the County of Stanislaus is likely to produce cost savings due to the expanded size of the procurement, and

WHEREAS, by an agenda report to the City Council dated September 20, 2007, from the Public Works Director, City staff recommended to the Council that an RFP process, as described in said agenda report, be utilized to solicit proposals for a new contract to replace the contract that will expire June 27, 2008,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that City staff is hereby authorized to solicit competitive proposals for a new MADAR contract and to combine the MADAR procurement with the city of Ceres and County of Stanislaus transit operations contract procurements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-593

A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO COMMON USE BETWEEN THE MODESTO IRRIGATION DISTRICT AND THE CITY OF MODESTO REGARDING THE CONSTRUCTION OF A 230,000 VOLT TRANSMISSION LINE BY THE MODESTO IRRIGATION DISTRICT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Irrigation District is planning to construct a 230,000 volt electrical transmission main, and

WHEREAS, the 230,000 volt electrical transmission main will be an above-ground facility, and

WHEREAS, the proposed electrical transmission main will cross over a 22.5 foot wide permanent sewer easement held by the City of Modesto, and

WHEREAS, the proposed electrical transmission main will cross over a 25.0 foot wide Access and Utility Easement held by the City of Modesto, and

WHEREAS, the proposed electrical transmission main will not interfere with existing and future City of Modesto utilities or construction, and

WHEREAS, the completed electrical transmission main will provide dependable and reliable service to the community, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement Consenting to Common Use between the Modesto Irrigation District and the City of Modesto regarding the construction of a 230,000 volt transmission line by the Modesto Irrigation District.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-594

A RESOLUTION REJECTING THE BID FOR THE PROJECT TITLED "PAMELA MONTEROSSO PARK" AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE

WHEREAS, the sole bid received for the "Pamela Monterosso Park" project was opened at 11:00 a.m. on September 25, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the sole bid received for the "Pamela Monterosso Park" project was 43.15% above the consultant's estimate, and

WHEREAS, this bid for the project exceeded the consultant's estimate by an excessive amount, and

WHEREAS, during the bid evaluation process staff determined that the bid unreasonably exceeded the consultant's estimate. Therefore, staff recommends the bid be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bid received for the "Pamela Monterosso Park" project opened in the office of the City Clerk on September 25, 2007, is hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-595

A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT - WASTEWATER COLLECTIONS TO ISSUE A FORMAL REQUEST FOR QUALIFICATIONS (RFQ) FOR GEOGRAPHIC INFORMATION SYSTEM (GIS) PROFESSIONAL SERVICES IN AN AMOUNT NOT TO EXCEED $250,000.

WHEREAS, on May 2, 2006, the State Water Resources Control Board (Regional Board) initiated Order No. 2006-0003-DWQ, which implemented a new Waste Discharge Requirement (WDR) for Wastewater Collections, and

WHEREAS, the WDR regulation contains requirements for monitoring, reporting, developing, and implementing Sanitary Sewer Management Plans (SSMPs), and

WHEREAS, one of the requirements of this new WDR is that the City develop and maintain a complete sanitary sewer utilities inventory with details of the data components by November 2, 2008, and

WHEREAS, staff contacted the Information Technology (IT) Department to assist in the development of specifications for this system, and

WHEREAS, Wastewater Collections has worked with IT on specifications for the RFQ and staff is requesting authorization to issue a formal RFQs for this project, and

WHEREAS, funds are budgeted in the Wastewater Operation Account No. 6210-480-5212-0235 for these professional services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Department - Wastewater Collections to issue a formal Request for Qualifications (RFQ) for geographic information system (GIS) professional services in an amount not to exceed $250,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED

OCT 30 2007

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2007-596

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-596

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE PRESIDENTIAL PRIMARY ELECTION A BALLOT MEASURE ENTITLED "THE ACCOUNTABILITY IN CITY HALL MEASURE OF 2008".

BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Pursuant to Article 11 of Section 3 of the California Constitution and Section 9255(a)(2) of the California Elections Code, and California Government Code Section 34458, the Council of the City of Modesto proposes to and does hereby, on its own motion, submit to the qualified electors of the City of Modesto, at the Presidential Primary election to be held on February 5, 2008, a ballot measure entitled "The Accountability in City Hall Measure of 2008".

SECTION 2. That a measure is to appear on the ballot as follows:

Should the City of Modesto Charter be amended per the "Accountability in City Hall Measure of 2008" as follows: • **Increase public employee accountability:** **Remove certain civil service protections;** **Redefine officers/employees duties;** **Establish City Auditor powers/duties;** • **Increase Council Authority:** **Redefine Mayor's role;** **Require Department Policy Statements;** **City Manager selection/removal;** **Establish Council salary setting commission;** **Charter officer selection/removal;** • **Increase Council Budget Oversight:** **Create economic forecast/budget message;** **Draft budget;** **Final budget modifications;** **Final budget adoption?**	**YES**	☐
	NO	☐

SECTION 3. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Stanislaus.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-597

Print

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE BALLOT MEASURE ENTITLED "THE ACCOUNTABILITY IN CITY HALL MEASURE OF 2008" TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE.

WHEREAS, the Modesto City Council has directed the City Clerk to submit to the voters at the next Presidential Primary election to be held on February 5, 2008, a measure seeking approval of a ballot measure entitled "The Accountability in City Hall Measure of 2008".

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk of the City of Modesto is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-598

A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE BALLOT MEASURE ENTITLED "THE ACCOUNTABILITY IN CITY HALL MEASURE OF 2008".

WHEREAS, the Modesto City Council has directed the City Clerk to submit to the voters at the Presidential Primary election to be held on February 5, 2008, a ballot measure entitled "The Accountability in City Hall Measure of 2008".

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no arguments may be filed with the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-599

A RESOLUTION APPROVING AN AMENDMENT TO CHAPTER III OF THE MODESTO URBAN AREA GENERAL PLAN TO ADOPT CHANGES TO THE LAND USE DESIGNATIONS FOR THE MODESTO REDEVELOPMENT PROJECT AREA IN COMPLIANCE WITH THE MODESTO REDEVELOPMENT AREA MASTER PLAN AND ENVIRONMENTAL IMPACT REPORT

WHEREAS, a General Plan for the City of Modesto entitled "City of Modesto Urban Area General Plan", was adopted by the City Council by Resolution No. 95-409, on August 15, 1995, and as amended by Resolution No. 2003-122 on March 4, 2003, in accordance with Section 65300 of the Government Code, and

WHEREAS, on March 4, 2003, the City Council of the City of Modesto recertified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan by Resolution No. 2003-123, and

WHEREAS, Government Code Section 65358 permits the amendment of a General Plan up to four (4) times per calendar year, and

WHEREAS, the Modesto Urban Area General Plan has been further amended by Modesto City Council Resolution Nos. 95-584, 96-20, 96-338, 96-639, 97-3, 97-137, 97-158, 98-293, 99-162, 99-564, 2000-303, 2000-633, 2001-47, 2001-476, 2002-154, 2002-526, 2003-101, and 2003-122, copies of which are on file in the office of the City Clerk, and

WHEREAS, the General Plan has not been amended this calendar year, and

WHEREAS, the Redevelopment Agency of the City of Modesto (the "Agency") has updated its Redevelopment Master Plan (the "Master Plan") and Environmental Impact Report (the "EIR") to revise certain Land Use Designations, and

WHEREAS, said Redevelopment Land Use Designations are also incorporated into said General Plan which General Plan must then be amended to remain in compliance with said Master Plan, and

WHEREAS, the proposed general plan amendment was referred to adjacent cities and Stanislaus County, affected school districts, Local Agency Formation Commission, the Stanislaus Council of Governments, affected federal agencies, and affected Native American groups for a 45-day review period, as set forth in Government Code Section 65352, and

WHEREAS, pursuant to Government Section 65354, the Planning Commission is required to make a written recommendation on the proposed General Plan Amendment to the City Council prior to the amendment of a General Plan, and

WHEREAS, on September 26, 2007, the Planning Commission held a duly noticed public hearing in Room 2001 located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed amendment to the Modesto Urban Area General Plan was considered, and

WHEREAS, as part of the Master Plan review and as the lead agency, the Agency will be considering the certification of the Redevelopment EIR (State Clearinghouse No. 2006071118), which EIR concluded that the proposed Amendment to the Urban Area General Plan is within the scope of said Redevelopment EIR, and

WHEREAS, on October 9, 2007, the City Council held a duly noticed public hearing in the Council Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed amendment to the Modesto Urban Area General Plan was considered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the Proposed General Plan Amendment to the City's General Plan is needed in order to:

1. Promote redevelopment and eliminate blighted conditions
2. Create a unique and recognizable image for Modesto
3. Promote the economic viability of the RDA Project Area by attracting new and diversified businesses
4. Implement higher density, mixed-use development to create a balanced, vibrant downtown and active neighborhood centers
5. Revise the Land Use Designations and City's development standards to include mixed-use zoning categories, overlay districts, targeted corridors, and design guidelines

6. Develop a variety of housing types in the Redevelopment Area, particularly in the Downtown, to act as a catalyst for other types of development
7. Enhance the visual appeal of Modesto's public spaces by upgrading existing and creating new parks, plazas, and streets that offer public access
8. Develop historic 10th and I Streets as attractive, pedestrian-oriented streets and create a clear sense of arrival at Modesto's downtown by enhancing the Sixth and I Street gateway and the intersection of 10th and I Streets
9. Promote efficient automobile, bicycle, and pedestrian circulation and linkages into and through the Redevelopment Area

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Agency's Master Plan is compatible with surrounding, existing, and planned land uses and that the Redevelopment Agency Board will be certifying the Final EIR for the Redevelopment Project Area.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Amendment to the Urban Area General Plan as described in **Exhibit "A"**, attached hereto and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the City Council held on the 9th day of October, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

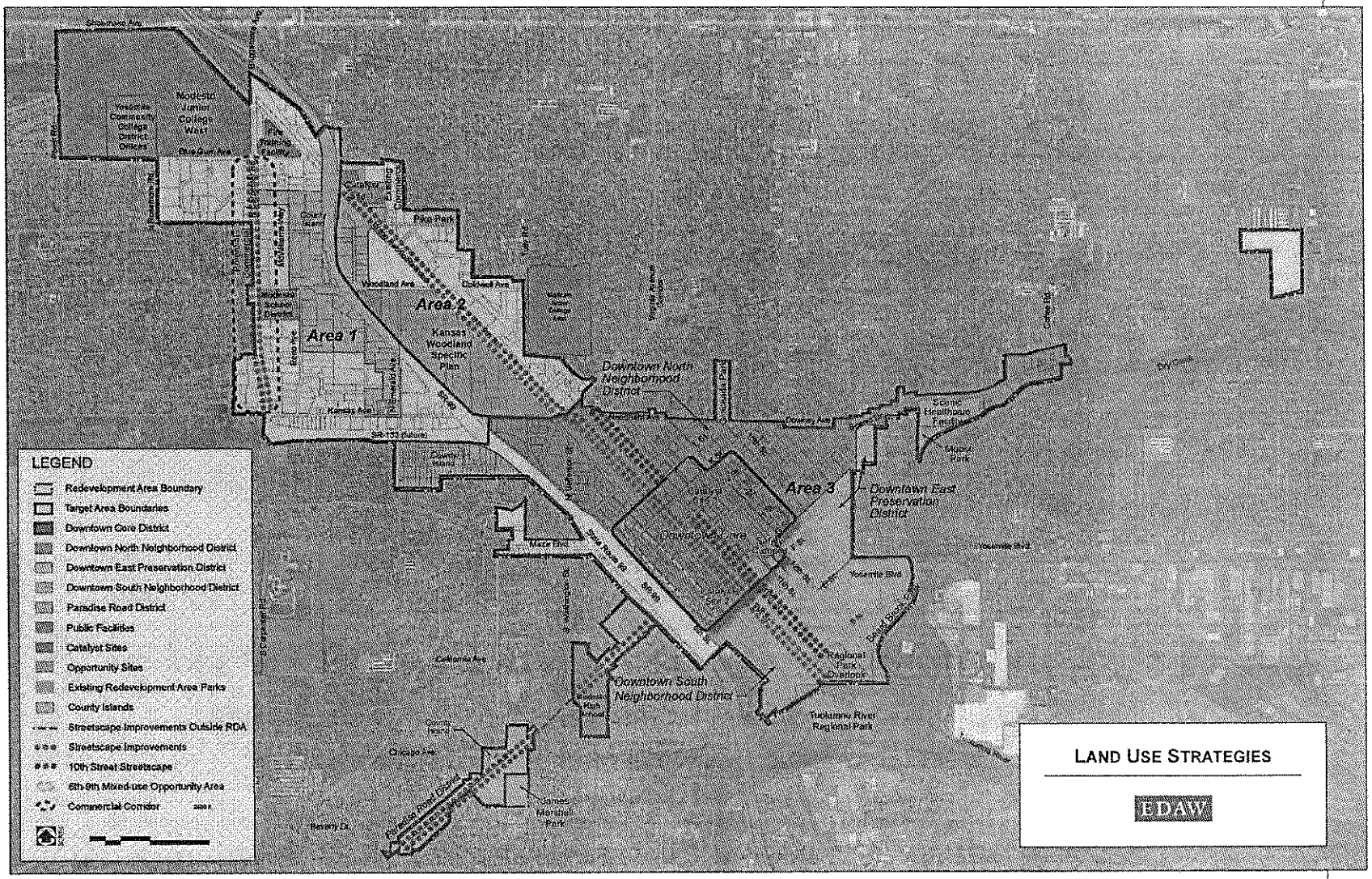
AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Olsen

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney


LEGEND
Redevelopment Area Boundary
Target Area Boundaries
Downtown Core District
Downtown North Neighborhood District
Downtown East Preservation District
Downtown South Neighborhood District
Paradise Road District
Public Facilities
Catalyst Sites
Opportunity Sites
Existing Redevelopment Area Parks
County Islands
Streetscape Improvements Outside RDA
Streetscape Improvements
10th Street Streetscape
6th-9th Mixed-use Opportunity Area
Commercial Corridor
Area 1
Area 2
Area 3
Downtown North Neighborhood District
Downtown East Preservation District
Downtown South Neighborhood District
Kansas Woodland Specific Plan
Modesto Junior College West
Pete Pedregon Park
James Marshall Park
Tuolumne River Regional Park
LAND USE STRATEGIES
EDAW

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-600

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF WILLIAM A. JAQUES FROM THE AIRPORT ADVISORY COMMITTEE

WHEREAS, WILLIAM A. JAQUES was appointed a member of the Airport Advisory Committee February 25, 2003, and

WHEREAS, WILLIAM A. JAQUES has tendered his resignation from the aforementioned committee effective October 8, 2007, and

WHEREAS, WILLIAM A. JAQUES has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of WILLIAM A. JAQUES from the Airport Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to WILLIAM A. JAQUES for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-601

A RESOLUTION CALLING FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD ON FEBRUARY 5, 2008, AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS TO CONSOLIDATE THE PRESIDENTIAL PRIMARY ELECTION WITH THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Pursuant to Article 11, Section 3 of the California Constitution, Section 9255(a)(2) of the California Elections Code, and California Government Code Section 34458, the Council of the City of Modesto proposes to and does hereby, on its own motion, submit to the qualified electors of the City of Modesto, at a special municipal election to be held on February 5, 2008, a proposal to amend Sections 601, 703, 800, 801, 900, 903, 1201, 1303 and 1304 of the Modesto City Charter and to add Sections 725, 902.1, 1302.1 and 1302.2 and to revoke Section 1302 as approved by Council on October 9, 2007.

SECTION 2. That it hereby orders the City Clerk to submit the charter amendments to the voters at a special municipal election on February 5, 2008.

SECTION 3. That pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of Stanislaus County is hereby requested to consent and agree to the consolidation of a special municipal election with the Presidential Primary Election on Tuesday, February 5, 2008.

SECTION 4. That the County Election Department is authorized to canvass the returns of the special municipal election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. That the Board of Supervisors is requested to issue instructions to the County Election

Department to take any and all steps necessary for the holding of the consolidated election.

SECTION 5. That the City of Modesto recognizes that an additional cost will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any such cost.

SECTION 6. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Stanislaus.

SECTION 7. That, if approved, the proposed charter amendments would take effect on the date set forth in Section 34459 of the California Government Code.

SECTION 8. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-602

A RESOLUTION APPOINTING SPECIAL COUNSEL AND DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE BALLOT MEASURE ENTITLED "THE ACCOUNTABILITY IN CITY HALL MEASURE OF 2008" TO SPECIAL COUNSEL FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE AND DIRECTING SPECIAL COUNSEL TO MAKE ANY RECOMMENDATIONS FOR AMENDMENTS TO THE BALLOT MEASURE; AND SETTING A SPECIAL MEETING

WHEREAS, the Modesto City Council has directed the City Clerk to submit to the voters at the next Presidential Primary Election to be held on February 5, 2008, a measure seeking approval of a ballot measure entitled "The Accountability in City Hall Measure of 2008", and

WHEREAS, Elections Code Section 9280 authorizes the City Council to direct that the measure be transmitted to the Office of the City Attorney for the purpose of preparing an impartial analysis unless the organization of the Office of the City Attorney is affected, and

WHEREAS, one of the Charter sections to be amended as part of this measure affects the organization of the Office of the City Attorney, as well as all Charter Offices and City Departments by mandating that Deputy Directors, Assistant City Attorneys and Deputy City Attorneys be moved from the classified service to the unclassified service. There are also two additional amendments that may peripherally affect the organization of the Office of the City Attorney and the Office of the City Clerk. Specifically, revised Section 903 which would prohibit combining of Charter Offices and proposed new Section 725 which would mandate preparation of Statements of Policy, and

WHEREAS, the Council has determined that out of an abundance of caution, and to avoid any potential appearance of impropriety, to direct that the ballot measure be transmitted to Special Counsel for the preparation of the impartial analysis. Special Counsel is hereby

determined to be Richard Rudnansky of the firm of Meyers Nave, who previously served as the City's Interim City Attorney,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk of the City of Modesto is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to Special Counsel, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure; and to review the existing ballot measure and return to the City Council at a special meeting called on October 30, 2007 at 2:00 p.m. to present any recommendations on amendments to the ballot measure for Council consideration and action.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-603

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE SPORTSMEN ESTATES SUBDIVISION, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, WJC Development, LLC., is the subdivider of the SPORTSMEN ESTATES SUBDIVISION ("SUBDIVISION"), and

WHEREAS, WJC Development, LLC., has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $396,728.00 and $198,364.00, respectively, and

WHEREAS, WJC Development, LLC., hase filed a warranty bond in the amount of $39,672.80 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in the SUBDIVISION as complete, authorize the City Clerk to file a Notice of Completion, and to release the securities upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $396,728.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $198,364.00 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $39,672.80 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007 -604

A RESOLUTION APPROVING AN EXTENSION TO AN AGREEMENT BETWEEN THE CITY OF MODESTO AND BANK OF THE WEST FOR BANKING SERVICES INCLUDING PAYABLES, PAYROLL, CASHIERING AND INVESTMENTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE EXTENSION TO SAID AGREEMENT

WHEREAS, by Resolution No. 94-734, the City of Modesto and Bank of the West entered into an agreement for banking services, and

WHEREAS, the current banking services agreement with Bank of the West expired on August 1, 2007, and

WHEREAS, City's purchasing policy and standard business practices call for the City to maintain an in-force agreement for banking services, and

WHEREAS, additional time is needed for the City of Modesto to evaluate banking service proposals through a formal bid process.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the banking extension agreement with Bank of the West

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-605

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 budget have been adjusted as shown on the Budget Request form(s).

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October 2007, by Councilmember Dunbar, who moved its adoption, 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
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-606

A RESOLUTION APPROVING A SIXTY (60) DAY EXTENSION TO A 6-MONTH PROVISIONAL APPOINTMENT FOR LAURA MESA, EXHIBITS COORDINATOR

WHEREAS, on February 13, 2007, by Resolution No. 2007-121, the City Council approved General Fund supplemental budget requests for Fiscal Year 2006-07, and

WHEREAS, one of these budget requests was to move the Exhibits Coordinator position from part-time to a permanent position with benefits, and

WHEREAS, Laura Mesa was provisionally appointed as Exhibits Coordinator on May 1, 2007, and

WHEREAS, hiring for the permanent Exhibits Coordinator position has been delayed, and

WHEREAS, the Parks, Recreation and Neighborhoods Department desires to extend the provisional appointment of Laura Mesa to this position until the recruitment is completed, and

WHEREAS, Modesto Personnel Rule 7.5 (c) requires Council approval if a provisional appointment is to exceed the six-month period authorized by said rule, and

WHEREAS, staff is requesting that the City Council approve a sixty (60) day extension to this provisional appointment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a sixty (60) day extension to the six-month provisional appointment of Laura Mesa to the position of Exhibits Coordinator is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-607

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

Solid Waste Enforcement Officer

The job specification for this classification is being created as a result of a completed classification study to identify the assignment in the Solid Waste Division of the Parks, Recreation, and Neighborhoods Department. The job specification for the classification of Solid Waste Enforcement Officer, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. CLASSIFICATION DELETED. The classification plan of the City of Modesto is hereby amended to delete the classification of Code Enforcement Officer I/II, as said classification is no longer being used.

SECTION 3. EFFECTIVE DATE. This resolution shall become effective on and after October 23, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
No. 3216 October 2007

Solid Waste Enforcement Officer

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

Under general direction, plans, organizes, and implements the City's Solid Waste Enforcement Programs; develops and submits grants applications, and administers grant-funded collection and abatement programs; implements public education programs; investigates and enforces applicable ordinances, regulations, and codes related to solid waste and hazardous materials.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Solid Waste Manager, Recycling Program Coordinator, or the Integrated Waste Specialist as assigned.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Receive, investigate, and respond to complaints of violations of local and state laws, ordinances, or codes related to solid waste and recycling regulations; maintain accurate records regarding enforcement actions to substantiate violations.

Prepare cost estimates, requisition supplies and materials, and purchase program related equipment.

Conduct business workshops; and otherwise promote the safe handling and disposal of Solid Waste.

Issue Administrative Citations for violations of state and local solid waste and environmental protection codes.

Based on the severity of the violation(s) prepare and present cases during administrative hearings or criminal proceedings, as required.

Prepare a variety of written reports, memos, and correspondence related to enforcement activities.

Essential Functions: (Continued)

Assist in developing and monitoring of the division budget.

Patrol in a City vehicle to investigate and mitigate alleged complaints of violations.

May provide lead direction and training to administrative support staff and other hourly field staff.

Analyze, evaluate, and interpret state and local codes regarding Solid Waste; explain and educate members of the public on enforcement procedures related to solid waste.

Represent the City in public meetings, at City Council meetings, and in neighborhood forums.

Assist in the development of the Solid Waste Division budget.

Write and submit applications for grant funding to various state and federal agencies as funds become available; administer grant budgets.

Prepare a variety of reports including grant related reports to the California Integrated Waste Management Board (CIWMB) or other granting agency as required by the grant agreement; act as City's liaison with the granting agency.

Perform other duties as assigned.

When assigned to the Used Oil Recycling Program:

Essential Functions:

Maintain existing and recruit new certified oil collection centers.

Manage the used oil collection center located at the City-County Airport.

Manage the residential curbside oil collection program performed under the Service Agreements with the City's residential collection companies.

Develop and Implement comprehensive, multi-media advertising programs for the promotion of used oil recycling.

Essential Functions: (Continued)

Develop and implement comprehensive public education programs on used oil recycling and the purchase of re-refined oil; make presentations to community groups and schools, provide information at community events; conduct business workshops.

Coordinate pollution prevention programs with the Environmental Compliance Division.

When assigned to the Waste Tire Program:

Essential Functions:

Monitor and inspect tire dealerships and tire haulers for compliance with state regulations regarding waste tire transportation/disposal.

Maintain evidence (Chain of Custody) for cases involving violations of state codes.

Act as the Agent of the CIWMB in enforcing the states regulations.

Provide training in tire enforcement procedures for other Tire Enforcement Program staff as assigned by the CIWMB.

Develop and implement tire handling, transportation, and recycling information programs for businesses.

Coordinate tire enforcement program with Stanislaus County to address tire issues in unincorporated areas within the City Sphere of Influence and in County pockets.

Marginal Functions:

May assist in the researching and rewriting of ordinances as necessary.

Perform other duties as assigned.

QUALIFICATIONS

Knowledge of:

Procedures and work methods required to perform the full range of assigned duties safely and efficiently.

Knowledge of: (Continued)

Written and oral communication techniques and methodologies, including graphic presentations and applicable computer skills.

Principles, practices, methods and techniques of evidence collection and preservation and writing incident reports.

General principles and practices of program planning and implementation.

Principles and practices of budget preparation; expense monitoring and tracking; procurement of materials and supplies.

Basic personal computer operations.

Safe and efficient work practices related to solid waste and recycling code enforcement activities.

Procedures and techniques for working with the public in a tactful but firm manner.

Ability to:

Become knowledgeable about environmental issues and concerns related to solid, hazardous, and recoverable waste collection and disposal.

Maintain a Budget.

Interpret architectural drawings or blueprints.

Coordinate and integrate solid waste and environmental code enforcement programs with other agencies.

Collect and analyze data and costs to draw logical conclusions and make appropriate recommendations.

Identify operational and administrative problems and implement problem resolving changes.

Seek out other applicable Grant programs on behalf of the City.

Write detailed reports and perform research related to enforcement activities.

Use sound judgment in decision making.

Ability to: (Continued)

Prepare written and oral reports; speak to community groups, news media, and the general public.

Communicate clearly and concisely both orally and in writing; write defensible reports.

Enforce various codes, ordinances, laws and regulations.

Establish and maintain cooperative working relationships with coworkers, subordinates and supervisors, other departments, outside agencies and the public including the ability to resolve conflicts.

Maintain detailed reports and research code enforcement activities.

Work effectively and efficiently under stressful situations and with minimum supervision.

Carry out conflict resolution skills.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Training

One year of related experience involving the application of municipal codes in an enforcement, inspection and/or public education capacity. Experience related to environmental management, environmental planning, or environmental enforcement field, including public contact is highly desirable.

Education

Completion of the twelfth grade supplemented by college level coursework in public administration, business administration, criminal justice, environmental science, biological science, or physical science, or other related field. Equivalent to an Associate of Arts Degree from and accredited college in any of the above or other related field is desirable.

License or Certificate

Possession of a valid class C California Driver's License by date of appointment with a satisfactory driving record is required.

Possession of a POST approved Penal Code 832 Certificate is required by the end of probationary period.

WORKING CONDITIONS

Environmental Conditions:

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment; also field environment requiring travel from site-to-site. Positions may require occasional overtime or weekend work and travel is rare.

Physical and Mental Requirements

Mobility: frequent use of keyboard; sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 25 pounds; occasionally up to 40 pounds. **Vision**: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity**: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking, in person and on the phone.
Emotional/Psychological: frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone.
Environmental: frequent exposure to noise.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-608

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-319.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-319, which approved the Class Range Table for General Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2006-319. Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective August 8, 2007," attached to Resolution No. 2006-319, is hereby amended as shown on the amended **Exhibit "A"** entitled, "City of Modesto Class Range Table General Non-Sworn Classes effective October 23, 2007," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" establishes the salary range for Solid Waste Enforcement Officer at range 121 ($3,475-$4,224 per month) and deletes Code Enforcement Officer I from salary range 115 and Code Enforcement Officer II from salary range 119.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after October 23, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective **October 23, 2007**

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Exhibits Coordinator
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Electrical Technician I Equipment Service Technician Maintenance Worker II Production Technician Storeskeeper

Exhibit "A"

RANGE	TITLE
115	Accounting Technician
	Administrative Services Technician I
	Customer Services Account Clerk III
	Senior Administrative Office Assistant
116	Equipment Operator
	Motor Sweeper Operator
	Traffic Operations Technician
	Used Oil Coordinator
	Wastewater Collection System Operator
	Water Distribution Operator I
117	Electrical Technician II
118	Customer Services Accounting Technician
	Fleet Procurement Specialist
	Parking Lot Maintenance Crewleader
	Parks Crewleader
	Recreation Coordinator
	Senior Storeskeeper
	Tree Trimmer
	Water Distribution Operator II
119	Administrative Services Technician II
	Assistant Buyer
	Building Maintenance Mechanic
	Civil Engineering Technician I
	Code Enforcement Officer-Neighborhood Preservation I
	Maintenance Mechanic – Parks
	Maintenance Mechanic – Pumps
	Public Information Technician
120	Accountant I
	Assistant Electrician
	Laboratory Analyst I
	Senior Equipment Operator
	Traffic Painter Crewleader
	Wastewater Treatment Plant Operator I
	Water Resource Specialist I
	Welder/Fabricator

RANGE	TITLE
121	**Solid Waste Enforcement Officer**
122	Equipment Mechanic Fire Equipment Mechanic Tree Trimmer Crewleader
123	Airport Maintenance Crewleader Civil Engineering Technician II Code Enforcement Officer-Neighborhood Preservation II Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I Cross Connection Specialist Environmental Compliance Inspector I Heavy Equipment Mechanic Laboratory Analyst II Operation and Maintenance Crewleader Planning Assistant Plant Mechanic Wastewater Treatment Plant Operator II Water Conservation Specialist Water Distribution Operator III Water Production Operator I Water Resource Specialist II Water Services Equipment Operator I
126	Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I Wastewater Treatment Plant Operator III
127	Civil Engineering Assistant Senior Fire Equipment Mechanic
128	Building Inspector I Community Development Program Specialist II Electrician Environmental Compliance Inspector II Heavy Equipment Mechanic Crewleader Instrument Repair Technician Water Production Operator II Water Services Equipment Operator II

RANGE	TITLE
129	
130	Construction Inspector Housing Rehabilitation Specialist II Laboratory Analyst III Project Coordinator Senior Wastewater Treatment Plant Operator
131	Senior Civil Engineering Assistant
132	Building Inspector II Environmental Review Specialist Senior Environmental Compliance Inspector Water Division Crewleader
133	
134	Plan Review Engineer Senior Construction Inspector
136	Senior Building Inspector

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-609

A RESOLUTION ACCEPTING THE 2007 COPS METHAMPHETAMINE INITIATIVE GRANT IN THE AMOUNT OF $450,000 FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES FOR METHAMPHETAMINE ENFORCEMENT AND EDUCATION, AND AUTHORIZING THE POLICE CHIEF TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, in June 2007, the City of Modesto Police Department applied for the 2007 COPS Methamphetamine Initiative Grant, and

WHEREAS, on September 14, 2007, the City of Modesto received notification from the U.S. Department of Justice, Office of Community Oriented Policing Services that the City of Modesto Police Department had been awarded the 2007 COPS Methamphetamine Initiative Grant, and

WHEREAS, the City of Modesto Police Department wants the Council of the City of Modesto to accept the 2007 COPS Methamphetamine Initiative Grant in the amount of $450,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services, and

WHEREAS, said Grant will fund methamphetamine enforcement and education with no fiscal impact to the City of Modesto, and

WHEREAS, the term of the 2007 COPS Methamphetamine Initiative Grant Program is September 1, 2007 through August 31, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2007 COPS Methamphetamine Initiative Grant in the amount of $450,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services.

BE IT FURTHER RESOLVED that the Police Chief is hereby authorized to execute the necessary program documents, including any extentions, amendments, or subsequent contracts with the U.S. Department of Justice, Office of Community Oriented Policing Services.

BE IT FURTHER RESOLVED that the grant funds received shall not be used to supplant expenditures controlled by this body.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-610

A RESOLUTION AMENDING THE FISCAL YEAR 2007/08 OPERATING BUDGET FOR THE STANISLAUS DRUG ENFORCEMENT AGENCY (SDEA), ESTIMATING REVENUE OF $450,000 FROM THE 2007 COPS METHAMPHETAMINE INITIATIVE GRANT

WHEREAS, the Police Department has been awarded a grant in the sum of $450,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services, and

WHEREAS, said $450,000 Grant will fund methamphetamine enforcement and education with no fiscal impact to the City of Modesto, and

WHEREAS, the $450,000 Grant funding will be allocated to the 2007/08 operating budget for the Stanislaus Drug Enforcement Agency, and

WHEREAS, the term of the 2007 COPS Methamphetamine Initiative Grant Program is September 1, 2007 through August 31, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2007/2008 Operating Budget for the Stanislaus Drug Enforcement Agency (SDEA) is hereby amended as indicated below to initiate said Program:

	Expense:		
To:	8850-190-2970-5000	$134,000	Non CIP Capital
	8850-190-2970-0235	$ 37,660	Services, Professional & Other
	8850-190-2970-0356	$160,540	Police Equipment Under $5,000
	8850-190-2970-0209	$ 83,800	Travel/Training
	8850-190-2970-0260	$ 34,000	Misc. Services
	Total	$450,000	
	Revenue:		
To:	8850-190-2970-3508	$450,000	2007 COPS Meth Grant

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-611

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE BIDS THROUGH VARIOUS COMPETITIVE PROCESSES FOR NEW SUPPLIES, EQUIPMENT AND TECHNOLOGY AS LISTED IN THE 2007 COPS METHAMPHETAMINE INITIATIVE GRANT DETAILED PROGRAM BUDGET

WHEREAS, the Modesto Police Department has been awarded the 2007 COPS Methamphetamine Initiative Grant in the amount of $450,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services for methamphetamine enforcement and education, and

WHEREAS, the grant allows the procurement of updated and new equipment and supplies needed to assist in the Grant Program, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Bid for the purchase of new supplies, equipment and technology for the Modesto Police Department on behalf of the Stanislaus Drug Enforcement Agency, of which it is a participating member, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account 8850-190-2970-0356 for the purchase of new supplies, equipment and technology,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue bids through various

competitive processes for new supplies, equipment and technology as listed in the 2007 COPS Methamphetamine Initiative Grant detailed program budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-612

A RESOLUTION AUTHORIZING THE ACQUISITION OF COMPUTER EQUIPMENT FOR THE STANISLAUS DRUG ENFORCEMENT AGENCY (SDEA) FROM DELL MARKETING L.P. BY ACCESSING THE TERMS OF THE COMPETITIVELY BID WESTERN STATES CONTRACTING ALLIANCE (WSCA) CONTRACT IN AN AMOUNT NOT TO EXCEED $115,000

WHEREAS, in 1998 the City established a Technology and Equipment Replacement Fund (TERF) for the purpose of replacing obsolete technology equipment, and

WHEREAS, in 1999 the City went through a formal bid process to establish a computer standard throughout the City, and

WHEREAS, Dell Marketing was the lowest responsive and responsible bidder to the formal bid process, and

WHEREAS, in March 2003 the City entered into a Municipal Master Lease Agreement with Dell Marketing L.P. for Information Technology (IT) Hardware Products and Services, and

WHEREAS, in August 2006 the City approved a new Schedule "A" Agreement to the Municipal Master Lease with Dell Marketing L.P. extending the term of the Lease for 48 months, and

WHEREAS, Dell Marketing has been providing personal computers to the City for the past seven years, and

WHEREAS, during that time the City has received Dell contractual pricing by taking advantage of the Western States Contracting Alliance (WSCA) pricing, and

WHEREAS, WSCA is a coalition of fifteen western states which was formed as a means by which participating states could join together to receive cost effective pricing on personal computers based on economies of scale, and

Whereas, the Modesto Police Department would like to acquire computer equipment on behalf of the Stanislaus Drug Enforcement Agency, of which it is a participating member, from Dell Marketing utilizing the contractural pricing of the WSCA, and

WHEREAS, the funding for said computer equipment will come from the 2007 COPS Mehtamphetamine Initiative Grant, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acquisition of computer equipment for the Stanislaus Drug Enforcement Agency (SDEA) from Dell Marketing L.P. by accessing the terms of the competitively bid Western States Contracting Alliance (WSCA) contract in an amount not to exceed $115,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SA Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-613

A RESOLUTION ACCEPTING THE 2007 ANTI-DRUG ABUSE ENFORCEMENT PROGRAM GRANT FROM THE GOVERNOR'S OFFICE OF EMERGENCY SERVICES (OES), IN THE AMOUNT OF $391,316, FOR THE STANISLAUS ANTI-DRUG TASK FORCE TO COMBAT MAJOR DRUG TRAFFICKING AND MANUFACTURING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS.

WHEREAS, in April 2007 the Modesto Police Department applied for funding from the Governor's Office of Emergency Services (OES) for the Stanislaus Anti-Drug Task Force, and

WHEREAS, the Stanislaus Anti-Drug Task Force is part of the Stanislaus Drug Enforcement Agency (SDEA), and

WHEREAS, this program will integrate federal, state, and local law enforcement agencies, prosecutors, and probation officers for the purpose of enhancing interagency coordination and intelligence and facilitating multi-jurisdictional investigations to combat major drug trafficking and manufacturing, and

WHEREAS, SDEA has been a recipient of a Byrne grant award from the Office of Emergency Services (OES) for the past 17 years, and

WHEREAS, said grant is used to add additional personnel and needed equipment to the countywide Joint Powers Agreement unit, and

WHEREAS, the term of this Agreement is July 1, 2006, through June 30, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2007 Anti-Drug Abuse Enforcement Program grant from the

Governor's Office of Emergency Services (OES), in the amount of $391,316, for the Stanislaus Anti-Drug Task Force to combat major drug trafficking and manufacturing.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-614

A RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES FOR PROFESSIONAL ENGINEERING SERVICES TO DEVELOP AN UPDATED ENGINEER'S REPORT FOR A WATER RATE AND CONNECTION FEE UPDATE STUDY, IN THE NOT-TO EXCEED AMOUNT OF $381,938, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on September 14, 2004, the City Council adopted Resolution No. 2004-471, which accepted the original September 4, 2004, Engineer's Report entitled "Water Utility Cost of Service Rate Study", and

WHEREAS, on November 23, 2004, the City Council adopted Resolution No. 2004-627, which rescinded all previous water fee resolutions, established a single-rate base, updated the City's monthly utility rates, and established the criteria to re-evaluate the utility rates every two years, and

WHEREAS, on May 24, 2005, the City Council adopted Resolution No. 2005-282, which updated the City's capacity charges (connection fees) for new development, and Resolution No. 2005-281, which established the criteria to re-evaluate the capacity charges every three years, and

WHEREAS, due to City staff's work on the recently adopted wastewater utility rate and capacity charge updates, updating the water utility rates and capacity charges has been delayed, and

WHEREAS, an up-to-date Engineer's Report is the essential supporting document needed to conduct a new utility rate and capacity charge study, and

WHEREAS, an updated Engineer's Report will present the proposed improvements needed to provide and maintain reliable water service to existing and

future customers (over both a 5-year and 20-year horizon), their associated cost estimates, and their allocations (existing rate payers vs. future users) under two scenarios, and

WHEREAS, the key items to developing an updated Engineer's Report will be updating the water system's hydraulic model and evaluating the feasibility of the City's continued participation in the Turlock Irrigation District's (TID) Regional Surface Water Supply Project (RSWSP), and

WHEREAS, based on TID's RSWSP schedule, City will need to decide if it will continue its participation in the construction of the RSWSP on or about November 1, 2008, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, West Yost Associates (WYA), of Pleasanton, CA, was selected as the most qualified firm to perform the work for this particular project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with West Yost Associates for professional engineering services to develop an updated Engineer's Report for a Water Rate and Connection Fee Update Study in the not-to-exceed amount of $381,938.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: O'Bryant

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-615

Print

A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 85-258 ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(373), (STEINPRESS DEVELOPMENT)" (MODESTO EMERALD VILLAGE, LLC)

WHEREAS, the City Council by Ordinance No. 2331-CS, which became effective on May 7, 1985 granted Planned Development Zone, P-D(373), to allow single-family rental units with related parking and storage on property located on the northwest corner of Elm and Emerald Avenues, 601 Emerald Avenue, and

WHEREAS, City Council Resolution No. 85-258 adopted by the City Council on May 7, 1985, approved the development plan for Planned Development Zone, P-D(373) and contained the conditions of approval thereof, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(373), was filed by Modesto Emerald Village, LLC on February 26, 2007, to allow the conversion of existing rental units to for-sale townhouse units, property located on the northwest corner of Elm and Emerald Avenues, 601 Emerald Avenue, and

WHEREAS, after a public hearing held on September 10, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-36, that the amendment to Planned Development Zone P-D(373), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed amendment is consistent with the Modesto Urban Area General Plan, because the use is consistent with the Residential (R), designation for the site.

2. The proposed Planned Development Zone Amendment will be compatible with the surrounding residential land uses.

WHEREAS, said matter was set for a public hearing of the City Council to be held on October 23, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Modesto Emerald Village, LLC for an amendment to Planned Development Zone, P-D(373) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-36 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3457-C.S on the 23rd day of October 2007, amending Section 2 of Ordinance No. 2331-C.S., to allow for sale detached townhouse units.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 and 2 of Resolution No. 85-258 entitled "A Resolution Approving a Development Plan For Planned Development Zone, P-D(373), (Steinpress Development)" are hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(373), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan titled "Emerald Villas" as amended in red, stamped approved by the City Council.

2. All conditions of City Council Resolution No. 85-258, not in conflict with this action shall remain in full force and effect.

3. Improvement Plans for any required improvements shall be prepared by a registered Civil Engineer and submitted for approval by the City Engineer or designee. All improvements shall be constructed in accordance with the approved plans.

4. Prior to the issuance of a building permit, a landscaping and irrigation plan for any new landscaping shall be approved by the Parks, Recreation and Neighborhood Director or designee. Proposed Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

5. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

6. Electric facilities and overhead lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities shall be granted as required. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules. Costs for relocation and/or undergrounding the District's facilities at the request of others will be borne by the requesting party.

7. The developer shall identify required fire lanes as follows: signs posted along the roadways every 25 feet or curbs painted red and the words, in six-inch high block letters "FIRE LANE NO PARKING" in white, every 25 feet.

8. The required 20 foot wide fire lane shall not be obstructed in any way.

9. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

10. Prior to City Council approval of a final subdivision map the subdivider shall submit for approval by the City Attorney the articles of incorporation and bylaws, as well as all covenants, conditions, and restrictions which are to be recorded to create a Homeowner's Association (HOA) which shall guarantee continued maintenance of common facilities in the development including: the tot-lot and hardscape (lot "A"). In addition, the HOA shall be responsible for the perpetual maintenance and preservation of the front yards of each lot. The Articles of Incorporation shall be filed with the Secretary of State prior to recordation of the final subdivision map. The covenants, conditions and restrictions shall be recorded prior to or concurrently with the final subdivision map.

11. Prior to sale of a condominium unit, a subdivision map shall be recorded.

12. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers,

directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

13. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/ suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

14. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

15. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

16. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

17. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

18. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

19. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

20. Suspend excavation and grading activity when winds exceed 20 mph.

21. Limit the area subject to excavation, grading and other construction activity at any one time.

22. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

    The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

    a. A hammer or any other device or implement used to pound or strike an object.

    b. An impact wrench or other tool or equipment powered by compressed air.

    c. A hand-powered saw.

    d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

    e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

    f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to

pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

23. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K."

"SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(373):

The entire construction program shall be accomplished in one phase, construction to begin on or before two years after the date of City Council approval and completion to be not later than three years after the date of City Council approval."

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-616

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(373), PROPERTY LOCATED ON THE NORTHWEST CORNER OF ELM AND EMERALD AVENUES, 601 EMERALD AVENUE (MODESTO EMERALD VILLAGE, LLC)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Modesto Emerald Village, LLC has proposed an amendment to P-D(373) to allow for the conversion of existing rental units to for-sale townhouse units, on the property located on the northwest corner of Elm and Emerald Avenues, 601 Emerald Avenue, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master Environmental Impact Report and whether the subsequent project was described in the Master Environmental Impact Rport as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2007-33 ("Initial Study") reviewed the proposed amendment to P-D(373) to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master

EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines begininning on September 29, 2007 the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 23, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to P-D(373), a copy of which is attached hereto as **Exhibit "A",** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2007-33

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2007- 33)

For the proposed:

Planned Development Amendment and Tentative Subdivision Map
P-PDA-07-003 & P-TSM-07-003

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

June 26, 2007

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: P-D(373) Amendment & Tentative Subdivision Map – Condo Conversion

B. Address or Location: 601 N. Emerald, Modesto CA

C. Applicant: Modesto Emerald Village LLC 1050 Fulton Avenue, Suite 218 Sacramento, CA 95825

D. City Contact Person: David Wage

Project Manager:	David Wage
Department:	Community and Economic Development Department
Phone Number:	(209) 577-5302
E-mail address:	dwage@modestogov.com

E. Current General Plan Designation(s): "R" Residential Land Use

F. Current Zoning Classification(s): "P-D 373" Planned Development Zone, P-D 373

G. Surrounding Land Uses:

North:	Residential Dwellings (R-1 Zone Property)
South:	Residential Dwellings (R-1 Zone Property)
East:	Residential Dwellings (R-1 Zone Property)
West:	Residential Dwellings (R-1 Zone Property)

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

There are 37 residential townhouses/cottages existing on the 140,738 square foot parcel. The applicant is proposing to amend the existing Planned Development Zone to allow the conversion of the units into individually owned "for sale" units. The applicant has also submitted an associated Subdivision Map application. The existing complex will not be expanded, modified, and no new facilities/ units will be added. No changes will occur to the previously approved site plan.

I. Other Public Agencies Whose Approval is Required:

None.

IIII. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ____ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.____ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Steve Mitchell for DW	Assistant Planner	June 26, 2007
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X ☐

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X ☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

DISCUSSION:
This is an application to convert existing units to condominiums. The conversion is compatible with the existing surrounding residential development located in this neighborhood. The project is consistent with the surrounding uses, the proposed project will not change to a level that will cause a change to the existing road capacities or levels of service.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project.*

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	YES	NO
(1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.	☐	X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

	YES	NO
(2) Substantially increase hazards due to a design feature (e.g., sharp curves	☐	X

or dangerous intersections) or incompatible uses (e.g. farm equipment).

(3) Result in inadequate emergency access. ☐ X

(4) Result in inadequate parking capacity. ☐ X

DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and have the following comments:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) There is no parking requirements associated with a subdivision map. However, future development on the subdivision will be required to provide parking in accordance with City Standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:
DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a subdivision of property. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

DISCUSSION:
The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project is an infill development and the surrounding properties are located within a fully developed urbanized area.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid

violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant.*

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. *This cumulative impact is considered significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

(2) The project does not propose to increase the impervious surface, the residential development already exists. The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act. ☐ X

(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures. ☐ X

(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. ☐ X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project. It is not near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the

project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project

to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for

diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

(2) This is an infill project, which involves the an existing residential project to be converted to residential condominiums. No hazardous materials will be involved with this project.

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is an infill project that will act to connect an existing community rather than divide one.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The development is already existing.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

Noise Measures:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

   The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

   A. A hammer, or any other device or implement used to pound or strike an object.

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.

   D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

   E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

   F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

   G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

N/A

Storm Drainage Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-617

A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 2006-563 ENTITLED "A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 2004-045 ENTITLED 'A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(564), (SOELLING).' (ISMAIL)" (BRANDVOLD)

WHEREAS, the Modesto City Council, by Ordinance No. 3342-C.S., adopted on January 13, 2004, and which became effective on February 26, 2004, granted Planned Development Zone, P-D(564) to allow 24,925 square feet of office, a 7,350 square foot restaurant, and a 8,625 square foot financial/retail building as provided in the C-1 Zone on property located on the southwest corner of Briggsmore Avenue and Oakdale Road, and

WHEREAS, Modesto City Council Resolution No. 2004-045, adopted by the Council on January 13, 2006, approved a development plan for Planned Development Zone, P-D(564), and contained the conditions of approval thereof, and

WHEREAS, the Planning Commission by Resolution No. 2006-46, adopted on January 19, 2006, approved a revised development schedule, construction to begin on or before January 13, 2007, and be completed by not later than January 13, 2009, and

WHEREAS, the Modesto City Council, by Ordinance No. 3424-C.S., adopted on September 5, 2006, and which became effective on October 12, 2006, approved an amendment to P-D(564) to allow a restaurant with a pub as permitted in the C-2 Zone on property located on the southwest corner of Briggsmore Avenue and Oakdale Road, and

WHEREAS, a Modesto City Council Resolution No. 2006-563, adopted on September 5, 2006, approved a revised development plan for P-D(564), and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(564), was filed by Ted Brandvold on April 23, 2007, to allow retail and office

uses as permitted in the C-1 Zone in Buildings B,C, D and E, property located on the southwest corner of Briggsmore Avenue and Oakdale Road, and

WHEREAS, after a public hearing held on September 10, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-35, that the amendment to Planned Development Zone, P-D(564), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed amendment to P-D(564) is consistent with the current General Plan land use designation for the site.
2. The conditions of approval will ensure that the proposed retail uses are compatible with the adjacent office and residential uses.
3. The proposed retail uses will provide much-needed retail uses in an underserved portion of the community.

WHEREAS, said matter was set for a public hearing of the City Council to be held on October 23, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Ted Brandvold for an amendment to Planned Development Zone, P-D(564), should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-35 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3458-C.S. on the 23rd day of October, to allow retail and office uses as permitted in the C-1 Zone in Buildings B, C, D and E.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 and 2 of Resolution No. 2006-563 entitled "A Resolution Amending

Sections 1 and 2 of Resolution No. 2004-045 entitled 'A Resolution Approving a Development Plan for Planned Development Zone, P-D(564),' (Soelling).' (Ismail)" are hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(564), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled "Eastgate Center: Amendment to P-D(564)" as amended in red, stamped approved by the City Council.

2. Prior to the issuance of a building permit, all signs shall be approved by the Community and Economic Development Director or designee. All signs located along the south or west elevations of Buildings C, D, and E abutting residential uses shall be illuminated in such a manner as to prevent impacting adjoining residences. Signs with back-lit, individual channel letters are encouraged; while canister style lighting is discouraged.

3. Prior to application for a building permit for any use in Buildings B, C, D or E, or any expansion of use in Building A, that generates a parking requirement that is greater than one space for every 300 square feet of building area, approval by the Planning Commission shall be required. The applicant shall demonstrate to the satisfaction of the Planning Commission that the center will have adequate parking with the addition of the proposed use.

4. Prior to issuance of building permits for Buildings D and E, a photometric lighting plan shall be submitted for review and approval by the Community and Economic Development Director. Fixtures should be of a type or adequately shielded so as to prevent glare from normal viewing angles. Said plans shall include specifications of the proposed lighting fixtures and demonstrate adequate shielding of the lighting fixtures so that there is no glare or light spillage upon neighboring residents south of the project site. Light fixtures located on the southern portion of the project site, adjacent to residences are strongly discouraged. The Lighting fixtures shall be allowed up to 25 feet above grade at the discretion of the Community and Economic Development Director.

5. At no time shall pedestrian access be made available from the Eastgate Center to Kendall Avenue.

6. Prior to issuance of building permits for Buildings C, D and E, all required parking shall be completed for the entire site.

7. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers,

directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

8. All conditions of City Council Resolution Nos. 2004-045 and 2006-563 not in conflict with this action shall remain in full force and effect."

9. The reciprocal accessway to the adjacent property to the South("reciprocal accessway") shall be temporarily closed by and at the sole cost of the property owner and developer of P-D(564) in manner determined by and approved by the Community and Economic Development Director ("Director") or designee until the entire parking lot as shown in the plot plan and elevations titled "Eastgate Center:Amendment to P-D(564)" as amended in red,stamped approved by the City Council("parking lot")has been constructed. At the time that the parking lot has been constructed, the reciprocal accessway shall be reopened by and at the sole cost of the property owner and developer of P-D(564) in a manner determined by and approved by the Director or designee. The reciprocal accessway shall be reviewed by the Director or designee six months after reopening to determine whether the reciprocal accessway should remain open or should be closed permanently. If the Director or designee determines that the reciprocal accessway should be closed permanently, the reciprocal accessway shall be closed permanently by and at the sole cost of the property owner and developer of P-D(564) in a manner determined by and approved by the Director or designee.

"SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(564):

That the entire construction program shall be accomplished in one phase, construction to begin no later than October 23, 2009, and be completed by not later than October 23, 2010."

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance amending P-D(564) becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Dunbar, Keating, O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By Steve Mitchell for PK
Community & Economic Development Department
Planning Division

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-618

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(564), PROPERTY LOCATED ON THE SOUTHWEST CORNER OF BRIGGSMORE AVENUE AND OAKDALE ROAD (BRANDVOLD)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Ted Brandvold has proposed an amendment to Planned Development Zone, P-D(564), to allow for retail uses on the site, property located at the southwest corner of Briggsmore Avenue and Oakdale Road, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master Environmental Impact Report and whether the subsequent project was described in the Master Environmental Impact Report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2007-35 ("Initial Study") reviewed the proposed amendment to P-D(564) to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not

identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines begininning on September 29, 2007 the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 23, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to P-D(564), a copy of which is attached hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2007-35

For the proposed:

Planned Development Amendment for P-D(564)
Application No. P-PDA-07-005

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

August 2007

City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the proposed project for P-D(564) is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Planned Development Amendment for P-D(564)

B. Address or Location: Southwest corner of Briggsmore Ave. and Oakdale Road

C. Applicant: Ted Brandvold, 1300 10th Street, Suite B, Modesto, CA, 95354

D. City Contact Person: Rebecca Cremeen

Project Manager: Rebecca Cremeen
Department: Community and Economic Development Department
Phone Number: (209) 571-5505
E-mail address: rcremeen@modestogov.com

E. Current General Plan Designation(s): MU

F. Current Zoning Classification(s): P-D(564)

G. Surrounding Land Uses:

North:	Briggsmore Avenue
South:	Single Family Residential/Medical Office
East:	Oakdale Road
West:	Single Family Residential

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

This is an application for an amendment to the previously approved Planned Development Zone P-D(564). The amendment request is to permit retail uses as permitted in the C-1 zone district on the entire site. Retail uses are currently limited to Buildings C and D on the approved site plan.

I. Other Public Agencies Whose Approval is Required: None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ___ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New

or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ___ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Project Manager | Planner (Title) | 8/29/07 (Date)

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X ☐

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X ☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 buildout of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

		YES	NO
(1)	The project exceeds the Master EIRs traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the Master EIRs program of mitigation measures.	☐	X
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

Discussion:

(1) Engineering and Transportation Staff reviewed the proposed project and noted that the amendment to the uses on-site would result in an additional 45 vehicle trips during the PM peak hour, which equates to less than one (1) vehicle trip per minute. This is not a significant increase in traffic. Further, the traffic levels are consistent with the assumptions made under the Master EIR; therefore, no traffic study is required and no site access study is required for the project.

(2) The changes proposed in the site layout do not significantly change the on-site circulation. No changes are proposed to the site's ingress/egress from Briggsmore and Oakdale Avenues. Therefore, the project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project, as conditioned, is in

accordance to City standards.

(3) Fire and Police Staff have reviewed this proposal and have not indicated that there is an emergency access problem. The project meets the City's Standards with regard to the maneuverability of emergency vehicles, provided hydrant and FDC locations are provided in the appropriate locations. This can be accommodated by the proposed site plan and will be handled at the time of the issuance of a building permit.

(4) Based on the proposed changes in use to the allow retail uses consistent with the C-1 zone district, a minimum of 186 parking spaces are required. This number reflects the restriction of the following uses on-site, in accordance with the conditions of approval applicable to the proposed amendment: restaurant uses in Buildings A, B, D and E; medical office uses in buildings A, B, C and D; and, convenient store/mini-market uses within any building on-site. The project proposes 222 parking spaces and therefore meets City Standards for number of parking spaces required on-site.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

Discussion:

(1) The project is within the scope of the Master EIR for traffic related impacts. Therefore, it should be within the scope of the Master EIR for CO and NOx emissions in that these pollutants are traffic induced.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it is an office/retail complex. Thus, the main source of pollution that would come with the development is traffic related. Since the traffic impacts are within the scope of the MEIR, so are the traffic-related pollution concentration impacts. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measure listed above.

(5) The development should not produce objectionable odors; in that office/retail buildings generally do not.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

Discussion:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with what the General Plan assumed for the site both in land use and intensity and is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measure applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

(2) The project will directly result in the development of land outside the March 2003 planning area boundaries. ☐ X

(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract. ☐ X

(4) The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use. ☐ X

Discussion:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural land will be converted.

(2) The project is within the baseline-developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture, nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively

considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation Measures appropriate to this project include: WS-11

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and

Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measure applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Public Works for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measure applicable to this project. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X

(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. ☐ X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation Measures applicable to this project include: AH-12, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm

events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures appropriate to this project include: SD-7, MEIR.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The proposed changes to the site plan would not result in a substantial increase in impervious surfaces beyond what was previously approved. The project will be designed to meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City and applied

to the project as a Mitigation Measure. With the application of the appropriate mitigation, the effect will be less than significant.

(3) The proposed changes to the site plan would not result in a substantial increase in impervious surfaces beyond what was previously approved and would not contribute additional water runoff. However, with the application of the mitigation measures called for in the conditions of approval for the project, the effect will be less than significant.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation measures appropriate to this project include: FWQ-14, MEIR.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:

(1) The project is consistent with the General Plan Designation for the site both in land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff. The appropriate mitigation measures will be applied to the project.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school

students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures, which provide that compliance results in less-than-significant impacts on schools.	☐	X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project includes no residential student-gathering component.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or	☐	X

significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: Since the project would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Public Works Department for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste. It is an office complex.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1(c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study.

A Mitigated Negative Declaration/EIR shall be prepared for the project and the following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover

2. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

3. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

4. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. *(the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)*

5. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

6. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

7. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site;

8. Suspend excavation and grading activity when winds exceed 20 mph; and

9. Limit the area subject to excavation, grading and other construction activity at any one time.

Noise Measures:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

   The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

   A. A hammer, or any other device or implement used to pound or strike an object.

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.

D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:

N/A

Water Supply Measures:

1. Prior to issuance of a building permit for each of the buildings within the development, the applicant shall pay the water connection fees at the rate in effect at the time of issuance of the building permit.

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

1. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K

Storm Drainage Measures:

1. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.

2. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

1. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.

2. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-619

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(582) (HUFF CONSTRUCTION)

WHEREAS, a verified application for an amendment to Section 29-3-9 of the Zoning Map was filed by Huff Construction on March 29, 2007, to reclassify from General Commercial Zone, C-2, to Planned Development Zone, P-D(582), to allow a mixed-use development combining commercial retail and office with condominium residential units and parking in a new eight-story building, property located at 1324 J Street, described as follows:

C-2 to P-D(582)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the southeast quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

All of Lots 1 thru 7 in Block 106 as shown on that Map of City of Modesto Block 106 filed in Volume 15 of Maps, Page 106, Stanislaus County Records; and

also including those portions of the southwesterly half of 14th Street, the southeasterly half of J Street, and the northeasterly half of the alley, being immediately adjacent to the above described property and extended to the intersections of said streets and alley.

WHEREAS, at a public hearing held on September 17, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-41, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezone is consistent with the City's Redevelopment Master Plan, which encourages higher density, vertical mixed-use development in the downtown area; and

2. The proposed rezone is consistent with the Urban Area General Plan of the City of Modesto, because the project is consistent with the land use designation of Commercial/Residential/Public (CRP) for the site within the Redevelopment Planning District (RPD) in both type and intensity.

3. The project will comply with the City's adopted Design Guidelines for Commercial and Industrial Development and will meet the requirements of the Municipal Code, including in particular the minimum requirements for on-site parking; and

4. The recommended conditions of approval will further insure that the proposed project will be compatible with surrounding development.

WHEREAS, said matter was set for a public hearing of the City Council to be held on October 23, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Huff Construction for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-41 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3459-C.S. on the 23rd day of October, 2007, reclassifying the above-described property from General Commercial Zone, C-2, to Planned Development Zone, P-D(582),

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto as follows:

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development, P-D(582), is hereby approved subject to the following conditions:

1. All development shall conform to the Planned Development drawings titled "Mixed-Use Building, 14th & J Streets" as amended in red, stamped approved by the City Council.

2. Prior to sale of a condominium unit, a subdivision map shall be recorded.

3. The development shall be limited to no more than 45 dwelling units.

4. One dedicated pair of 'stacked' parking spaces shall be provided for each dwelling unit in the development. The handicap accessible unit, which is required by law, may be excepted from this condition, since there is an un-stacked handicap accessible parking space provided for said unit.

5. Prior to the issuance of a building permit, annexation to the appropriate schools community facilities district will be required to the extent allowed by State law. If this requirement cannot be enforced due to the status of State law, then prior to issuance of a building permit, the developer shall provide written verification from the affected school districts that a determination has been made as to whether the developer will pay the school fees in effect or annex to the appropriate community facilities district.

6. Prior to the issuance of a building permit, final design of the southeast elevation of the building (on the property line adjacent to 915–14th Street) as to architectural treatments which will provide improved articulation on that side of the building, together with the final selection of colors and materials for the building overall, shall be to the satisfaction of the Community & Economic Development (C&ED) Director.

7. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhoods Department Director or designee. The landscaping and irrigation system shall be installed and maintained in accordance with the approved plan.

8. Prior to the issuance of a building permit, the development shall include improvements to the surrounding streetscape, including but not limited to sidewalks, street trees, and lighting, in accordance with the Downtown Improvement District and City Standards to the satisfaction of the City Engineer.

9. Prior to the issuance of a building permit, improvement plans for any required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

10. All public improvements shall be designed and constructed according to City of Modesto Standard Specifications or as required for the public health and safety by the City Engineer or designee. The specific public improvements required for this development include (but may not be limited to) reconstruction of the 20-foot alley.

11. Access from the parking garage to the alley shall be for service and emergency vehicles only.

12. The new driveway on 14th Street to serve the parking garage shall be designed per City of Modesto Standard Specifications to the satisfaction of the City Engineer.

13. Prior to certificate of occupancy, all damaged or deteriorated curb, gutter, sidewalk, and other existing public improvements at the project site shall be repaired or replaced as required for the public health and safety as determined by the City Engineer or designee in accordance with City of Modesto Standard Specifications.

14. Prior to the issuance of a building permit, the developer shall obtain approval of the City Engineer for sewer connection. Sewer connections shall be designed to meet City Standard Specifications and to the satisfaction of the City Engineer.

15. Prior to the issuance of a building permit, the developer shall obtain approval of the City Engineer for the stormwater connection to the City stormwater system. The developer shall demonstrate that the proposed connection will not adversely affect upstream and downstream capacity of the City stormwater line or cause back up in the stormwater line.

16. On-site storm drainage shall follow the Guidance Manual for New Development Stormwater Quality Control Measures (available on the City's website).

17. Prior to the issuance of a building permit, the developer shall provide an owner-signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Development Services, Stormwater, for recording, if treatment system is required.

18. Prior to the issuance of a building permit, the developer shall obtain coverage for the project under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB), as follows:

    a. To obtain coverage under the General Permit, a Notice of Intent (NOI) shall be filed with the SWRCB. Submit one copy of the NOI to Development Services, Stormwater, when filed.

    b. The General Construction Permit requires the Developer to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for project. Submit one copy of SWPPP to Development Services, Stormwater, for review.

19. If a restaurant or other food service facilities are planned for this development, there may be additional stormwater requirements.

20. Prior to the issuance of a building permit, developer should provide for separate plumbing to the sanitary sewer to accommodate any grease generating uses (such as restaurants), medical procedure waste, or similar

establishments identified as having wastewater pretreatment requirements to provide suitable monitoring and capture of potential wastewater discharges that impact the system.

21. Prior to the issuance of a building permit, the project shall meet all conditions applicable to high-rise buildings in Chapter 4 of the 2001 California Building Code, if the proposed building will have floors used for human occupancy located more than 75 feet above the lowest floor level having building access.

22. Prior to the issuance of a building permit, all on-site and off-site improvements shall be approved by the Fire Prevention Bureau as they relate to Fire Department access, fire flow requirements, and the location and type of fire appliances, including hydrants and other connections.

23. Prior to the issuance of a building permit, the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

24. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the respective utility company, Modesto Irrigation District, and/or City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be dedicated as required.

25. The covenants, conditions and restrictions (CC&Rs) pertaining to the development shall provide, among other things, that utility service lines, facilities, and equipment may be installed on or through dwelling units to serve other dwelling units in the project as required by utility companies serving the project, and that said utility companies shall have a right of access to all lots, units, and buildings where necessary to perform the required maintenance and repair.

26. Signs shall be allowed in accordance with the requirements of the C-2 zone, subject to compliance with the Design Guidelines for Commercial and Industrial Development, adopted September 12, 2006.

27. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris, and all exposed wall surfaces shall be kept free of graffiti.

28. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

29. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

30. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

31. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

32. Within urban areas, track-out shall be immediately removed when it extends 50 feet or more from the site and at the end of each workday.

33. The developer shall implement measures to prevent carryout or trackout that may otherwise occur in conjunction with construction activities.

34. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

35. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

36. Following the addition of materials to, or the removal of materials from, the surface of any outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

37. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine." Construction equipment and vehicles should be equipped with properly operating mufflers according to manufacturers recommendation. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

38. The noise ordinance prohibits also the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (or before 9:00 a.m. or after 9:00 p.m. on Saturdays and Sundays and State or federal holidays):

a. A hammer or any other device or implement used to pound or strike an object.

b. An impact wrench or other tool or equipment powered by compressed air.

c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current or direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

39. Prior to the issuance of a building permit, developer shall provide to the satisfaction of the Community & Economic Development Director an evaluation, prepared by a qualified architectural historian, of any structures more than 50 years old that are located within 100 feet of the proposed construction, said evaluation to be used by the City to determine and require measures to be implemented as appropriate to preserve those structures and places it deems to be historically significant.

40. If archeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the MEIR.

41. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

42. The developer shall conduct the appropriate geotechnical analysis to ascertain site-specific subsurface conditions relevant to foundation stability and seismic safety.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(582):

The entire construction program shall be accomplished in one phase, construction to begin on or before October 23, 2010 and completion to be not later than October 23, 2011.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(582), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department
Planning Division

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-620

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 29-3-9 OF THE ZONING MAP TO REZONE FROM GENERAL COMMERCIAL ZONE, C-2, TO PLANNED DEVELOPMENT ZONE, P-D(582), PROPERTY LOCATED AT 1324 J STREET. (HUFF CONSTRUCTION)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Huff Construction has proposed that the zoning designation for property located at 1324 J Street, be amended to rezone from General Commercial Zone, C-2, to Planned Development Zone, P-D(582), to allow a mixed-use development combining commercial retail and office with condominium residential units and parking in a new eight-story building, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master Environmental Impact Report and whether the subsequent project was described in the Master Environmental Impact Report as being within the scope of the project, and

WHEREAS, the City's Community and Economic Development Department by Environmental Assessment Initial Study EA/C&ED No. 2007-32 ("Initial Study") reviewed the proposed amendment to the Zoning Map and Planned Development project to determine whether the project is within the scope of the project covered by the

Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no or new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines, on September 29, 2007, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, the Planning Commission, by Resolution No. 2007-41 recommended to the City Council approval of the application of Huff Construction to amend Section 29-3-9 of the Zoning Map to rezone from General Commercial Zone, C-2 to Planned Development Zone, P-D(582), for the property located at 1324 J Street, to allow a mixed-use development combining commercial retail and office with condominium residential units and parking in a new eight-story building, as set forth in said Resolution No. 2007-41, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing, which was held on October 23, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezone to Planned Development Zone, P-D(582), a copy of which is attached hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The type of project is described in Chapter II of the Master EIR (SCH No. 1999082041).

2. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made Conditions of Approval of the project.

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

4. Based on the Initial Study, the City of Modesto finds and determines:

    a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR;

    b. No new or additional mitigation measures or alternatives are required; and

    c. The project is within the scope of the MEIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED No. 2007-32

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2007-32

For the proposed:

14th & J Street Mixed-Use Project
Planned Development and Tentative Subdivision Map
P-PDZ-07-001 and P-TSM-07-004
(Huff Construction, Applicant)

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

September 7, 2007

City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Environmental Checklist ("Initial Study") is used in determining whether **Planned Development P-PDZ-07-001 & Tentative Subdivision Map P-TSM-07-004** is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: 14th & J Street Mixed-Use Project
Planned Development & Tentative Subdivision Map

B. Address or Location: 1324 J Street, Modesto, CA

C. Applicant: Huff Construction Company, Inc
4917 Stoddard Road, Modesto, CA 95354

D. City Contact Person: Philip Reed

Project Manager: Philip Reed, Associate Planner
Department: Community & Economic Development Department
Phone Number: (209) 577-5267
E-mail address: preed@modestogov.com

E. Current General Plan Designation(s): project site is within the Redevelopment Planned District (RPD), with land use designation Commercial/Residential/Public (CRP), allowing for mixed use development and infill.

F. Current Zoning Classification(s): (C-2) General Commercial Zone

G. Surrounding Land Uses:
North: (C-2) commercial office and parking
South: (C-2) commercial office and parking
East: (C-2) residence converted to office
West: (C-2) commercial office and parking

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

Rezoning the site from General Commercial (C-2) to Planned Development (P-D) accommodates a proposed mixed-use project comprising approximately 15,000 square feet of commercial retail and professional office space together with 45 dwelling units and a parking garage within a new 8-story building. This new building will entirely replace the existing development of the site, which consists of a small professional office built in 1964 and surface parking lot. The tentative subdivision map provides for condominium air space lots to allow independent ownership of each dwelling unit.

I. Other Public Agencies Whose Approval is Required: none.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. _X_ **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:

      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.

      b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ___ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

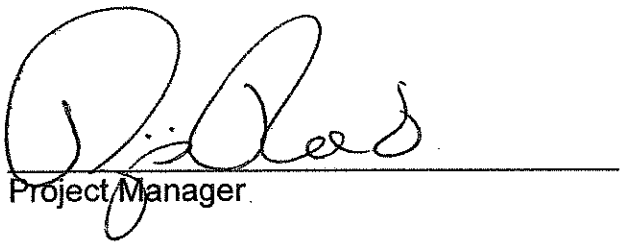
   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ___ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.



Project Manager

ASSOCIATE PLANNER
Title

9/7/2007
Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. ☐ X

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X ☐

Discussion:

(4) The City completed a Collection System Master Plan Update and Wastewater Treatment Master Plan Update in 2006, and a city-wide long term water supply analysis in 2007. These studies identified deficiencies in the existing systems, capacity and supply, to accommodate the anticipated future growth of the City's urban area. The necessary improvements to these systems were also identified, including the expansion and upgrade of various wastewater collection and treatment facilities, and implementation of a long term program for securing and developing additional water supplies. In order to finance these new infrastructure investments, the City adopted in 2007 new water and wastewater connection fees. These increased fees will apply to the project. Therefore, policies remain in place, as described in (5) above, that require site-specific mitigations (that is, increased fees) which compensate for the impacts identified.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause project-specific significant effects on the environment that were not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	YES	NO
(1) Project would contribute one hundred (100) or more peak hour trips to or from the site during an adjacent roadway's peak hour or the development's peak hour to adjoining roads, and it generates more trips than assumed for the general plan land use category and zoning in the Master EIR.	☐	X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Traffic Engineering staff, a comprehensive traffic study would be required, including off-site traffic impact analysis.

(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

Discussion:

(1) Traffic Engineering Division of the Public Works Department has reviewed the project and determined that it is within the scope of the Master EIR and no further traffic study is required. This conclusion is based upon the following:

a) The project as proposed would generate 77 peak hour vehicle trips, which is less than the 100 peak hour trip threshold that would trigger requirement of a traffic study;

b) The number of vehicle trips would be further reduced by the by-pass rate, the internal trip capture rate, and credit for the existing trip generation from the project site's current use, to a net peak hour trip generation of only 41 vehicle trips;

c) Because the downtown area is fully developed, trip generation would be distributed relatively equally in all four directions, which translates into approximately 10 trips at the next signalized intersection in any direction, or one vehicle every 360 seconds (that is, one vehicle every fourth traffic signal cycle, since downtown signals are on a 90-second cycle length). One additional vehicle every fourth signal cycle is not considered significant at any nearby intersections in downtown Modesto.

The project site is located at the shared corner of four Traffic Analysis Zones (TAZs): 295, 296, 335, and 348, as identified in Appendix F of the Final Master EIR for the City of Modesto Urban Area General Plan. In the General Plan model, the combined area of these four TAZs are projected to have 268 single-family units and 394 multi-family units, for a total of 662 dwelling units by the year 2025. This total translates into an estimate of 1893 residents within this combined area by the year 2025, based on the average of 2.86 persons per dwelling unit assumed in Appendix F. According to block level data available from the 2000 Census, the existing number of residents within the combined area of the four TAZs is 501. Adding the estimate of 129 new residents generated by the 45 condominium dwelling units proposed by the project gives a total of 630 residents in the combined area, which falls within the projection assumed for the General Plan.

Therefore the project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area. This intensity includes in particular the number of dwelling units proposed by the project and the increase in number of residents that they represent.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses.

(3) Police and Fire staff have reviewed this proposal. The project will not result in, cause, or provide inadequate emergency access.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. The project will provide all required parking on site in compliance with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

These are also cumulative impacts on air quality.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

Discussion:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not exceed their Thresholds of Significance for these emissions. In that the project creates new housing within the established urban area of the City, it has the potential to reduce commute distances for the residents who live there and help mitigate the effects of longer commutes from outlying areas.

(2) This project incorporates the best management practices for PM10 reduction established by the SJVUAPD (see mitigation measures above).

(3) Applicable General Plan Policies will be applied to the project; therefore, project-specific effects will be less than significant for this impact (see mitigation measures above).

(4) The project is not a significant contributor to pollution levels in that it consists of mixed use residential with retail commercial office; therefore, the primary source of pollution associated with the development would be traffic related. Since the traffic impacts are within the scope of the MEIR, so are the traffic-related air quality impacts. The PM10 emissions created through the construction phase will be mitigated as called for by the MEIR with the mitigation measure listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following *significant and unavoidable environmental impacts* relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceeding the City's Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation Measures appropriate to this project include: N-4, N-5, N-6, and N-9.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

Discussion:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The project is located between the L_{dn} 60 and 65 contours, as depicted in Figure VII-1 of the City's Urban Area General Plan showing the most recent noise contours for the City, and is therefore within the maximum acceptable noise level for single family residential use. Noise mitigation measures called for by the General Plan for projects within the Baseline Developed Area (and the Redevelopment Area), are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the Baseline Developed Area (and the Redevelopment Area), are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area *will have a less-than-significant impact on agricultural lands.*

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:
Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to some other non-agricultural use.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project is located within the Redevelopment Area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is located within the Redevelopment Area of the City and is therefore completely surrounded by developed urban area. Furthermore, the project would provide new housing within this established urban area and would therefore help relieve the demand for new housing without increasing pressure for new development of land outside the March 2003 planning area boundaries that could result in the conversion of farmland to non-agricultural uses.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan *are considered less than significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area. This intensity includes in particular the number of dwelling units proposed by the project and the increase in number of residents that they represent.

(2) An amendment to the General Plan is *not* required by this project.

(3) The project is infill development which will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) There are no existing scenic vistas from the location of the proposed development. It is completely surrounded by urbanization, and views of prominent natural features such as the Diablo and Sierra Mountain Ranges are already precluded from this site and the adjacent and surrounding properties. New views of the surrounding landscape will be provided from upper floors of the new development.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings. The new development will comply with the City's adopted Design Guidelines.

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The requirement for geotechnical analysis as appropriate, together with application of the adopted Uniform Building Code (UBC) and its seismic requirements, will insure that soil and other subsurface conditions related to foundation stability will be assessed and accommodated in the design of the project such that it would not become unstable or cause on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) *will be less than significant.*

Effect: Build-out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation ensures that the project will not exceed local, state, and federal energy standards. *The impact is less than significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment. ☐ X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less than significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation Measures applicable to the project include: LSA-8, LSA-9, LSA-11, of the Master EIR.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X

Effect: It is projected that by 2025, the City will generate 1.5 million tons of solid waste requiring disposal in a landfill. Stanislaus County and its other cities are projected to generate another 3.3 million tons, for a total of 4.8 million tons requiring disposal. This total takes into consideration current diversion rates and use of the Stanislaus Resource Recovery Facility (SRRF) waste-to-energy facility for the majority of solid waste that is not source reduced, recycled, or composted. At the current loading rate, the Fink Road Landfill has a remaining life of 41 years. This landfill's remaining capacity of 6 million tons can accommodate the projected combined total of 4.8 million tons, and some of this projected total may go to other landfills. Since build-out under the Urban Area General Plan would not exceed the existing landfill capacity, and a 129-acre future expansion of the landfill has been approved, its potential impact on solid waste disposal is considered less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project is located within the Redevelopment Area, which is already developed with the necessary infrastructure and services; the project would not, therefore, result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less than significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project. The appropriate school impact fees will be assessed on all construction.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less than significant.*

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff. Public Works staff evaluated the project and determined that adequate capacity exists to serve the project, and the replacement of surface parking lot drainage with rooftop drainage should help limit further pollution of runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less than significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation measures appropriate to this project include: FWQ-14, MEIR.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures appropriate to this project include: SD-7, MEIR.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system. Public Works staff evaluated the project and determined that adequate capacity exists to serve the project, since there will be no net increase in runoff generated.

(2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. ☐ X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) There are four (4) properties within an approximately one block radius of the project site that are designated Landmark Preservation Sites or determined to be of historical interest by the Landmark Preservation Commission and Redevelopment Agency:

- Abel & Ellman Office, 1015-14th Street
- Davis-Hatton House, 909-14th Street
- State Theatre, 1307 J Street
- McHenry Museum, 1402 I Street

The second of these (the Davis-Hatton House, 909-14th Street) is located less than 100 ft from the project site. However, mitigation measures called for by the General Plan are incorporated into the conditions of approval for the project, and the existing building on the project site is not more than 45 years old, therefore the project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage

(3) There is no conflict with any local policies or ordinances protecting biological resources. The City of Modesto currently does not have a tree preservation policy or ordinance that applies to the Redevelopment Area or Baseline Developed Area of the General Plan, and the project site is not located within or near any riparian zone.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation Measures applicable to this project include: AH-9, AH-12, AH-13, of the Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, *this is a significant and unavoidable impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area. In that the project creates new higher density housing within the established urban area of the City, it has the potential to help minimize the City's contribution to the cumulative loss of habitat associated with development of the Planned Urbanizing Area.

(2) The project site is located within the Redevelopment Area of the City and is therefore completely surrounded by developed urban area. It is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project is within the scope of the Modesto Urban Area General Plan and will not generate demands beyond that already anticipated for the area. Public Works staff evaluated the project and determined that adequate pipe capacity and wastewater treatment plant capacity exists to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan *will be less than significant.*

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project is within the scope of the Modesto Urban Area General Plan and will not generate demands beyond that already anticipated for the area. Public Works staff evaluated the project and determined that adequate capacity exists to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1(c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

2. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

3. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

4. Within urban areas, track-out shall be immediately removed when it extends 50 feet or more from the site and at the end of each workday.

5. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

6. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water,

chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

7. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

Noise Measures:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine." Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

2. The noise ordinance prohibits also the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (or before 9:00 a.m. or after 9:00 p.m. on Saturdays and Sundays and State or federal holidays):

   a. A hammer, or any other device or implement used to pound or strike an object.

   b. An impact wrench, or other tool or equipment powered by compressed air.

   c. A hand-powered saw.

   d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

   e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

   f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

   g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

1. Where construction is proposed within 100 feet of any structures or areas of historical significance more than 45 years old, the City shall evaluate the proposal and require measures to be implemented to preserve those structures and places as appropriate.

2. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the CEQA Guidelines.

Storm Drainage Measures:

1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

1. The developer shall conduct the appropriate geotechnical analysis to ascertain site-specific subsurface conditions relevant to foundation stability and seismic safety.

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effects: ***none***.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-621

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(581). (HABITAT FOR HUMANITY)

WHEREAS, a verified application for an amendment to Section 31-3-9 of the Zoning Map was filed by Habitat for Humanity on March 8, 2007 to reclassify from Medium High Density Residential Zone, R-3, to Planned Development Zone, P-D(581), to allow development of a 20-unit single family residential subdivision, property located at the eastern end of Houser Lane described as follows:

R-3 to P-D(581)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the Southeast quarter of Section 31, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:
All of Parcel B as shown on that Parcel Map Recorded in Volume 53 of Parcel Maps, Page 2, Stanislaus County Records on July 19, 2004.

WHEREAS, after a public hearing held on September 17, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-40, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed zone change to P-D(581) is consistent with the current Residential General Plan land use designation for the site.

2. The conditions of approval will ensure that the proposed project is compatible with the adjacent residential uses.

3. The proposed project will provide much-needed affordable housing in Modesto.

WHEREAS, said matter was set for a public hearing of the City Council to be held on October 23, 2007 in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Habitat for Humanity for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-40 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3549-C.S. on the 23rd day of October, reclassifying the above-described property from Medium-High Density Residential Zone, R-3, to Planned Development Zone, P-D(581).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(581), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled "Hope Village" as amended in red, stamped approved by the City Council.

2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

3. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

4. All private streets and parking areas shall be constructed in accordance with the standard structural section for residential streets as contained in the City of Modesto Standard Specifications.

5. All-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions prior to and at all times during construction.

6. All curbs within the development shall be painted red and labeled "no parking zone".

7. Prior to approval of the Tentative Subdivision Map, a 5 foot wide public utility easement shall be dedicated along the western property boundary to allow for access to the existing 6" water line.

8. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

9. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.

10. Trash cans shall be screened from view from any public street.

11. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

12. All utilities shall be underground and cable television service shall be stubbed into all units.

13. Window treatments shall be approved by the Community and Economic Development Department Director or designee prior to issuance of building permits for second story units on Lots 2, 3, 5, 6, 9, 10, 12, and 13.

14. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building & Development Services all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

15. Prior to the issuance of a building permit for any structure, a final subdivision map shall be recorded.

16. Prior to City Council approval of a final subdivision map the subdivider shall submit for approval by the City Attorney the articles of incorporation and bylaws, as well as all covenants, conditions, and restrictions which are to be recorded to create a Homeowner's Association (HOA) which shall guarantee continued maintenance of common facilities in the development including: the private street, guest parking area and hardscape, and landscaping (lot "A"). The Articles of Incorporation shall be filed with the Secretary of State prior to recordation of the final subdivision map. The covenants, conditions and restrictions shall be recorded prior to or concurrently with the final subdivision map.

17. Prior to issuance of a building permit, the developer shall enter into an agreement with the City of Modesto pursuant to construction and maintenance of the dwelling units for very-low-income households and other incentives as required by Chapter 3 of Title X of the Modesto Municipal Code.

18. The State Water Control Board and City of Modesto require a Storm Water Pollution Prevention Plan (SWPPP) to be developed prior to construction activity. A copy of the notice of intent (NOI) and SWPPP shall be required to obtain a grading permit if required by the Public Works Director or designee.

19. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

20. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone P-D(581):

The entire construction program shall be accomplished in one phase, construction to begin on or before January 31, 2009 and completion to be not later than January 31, 2013.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict

adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(581), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department
Planning Division

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-622

A RESOLUTION APPROVING AN AGREEMENT TO CONSTRUCT IMPROVEMENTS AND GRANT REVOCABLE LICENSE BETWEEN CALIFORNIA EQUITY MANAGEMENT GROUP INC. AND THE CITY OF MODESTO, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEES, TO EXECUTE THE AGREEMENT

WHEREAS, California Equity Management Group Inc. and the City of Modesto have worked together to reach agreement on a formal Agreement to Construct Improvements and Grant Revocable License, and

WHEREAS, the Agreement to Construct Improvements and Grant Revocable License includes, but is not limited to, the cost of licensing the right-of-way, maintenance of facilities located in the right-of-way, liability insurance coverage and a closure plan, and

WHEREAS, improvements shall be constructed as shown on the Improvement Plans and approved by and on file with the City's Engineer, and the Landscape Improvement Plans approved by and on file with the City's Parks, Recreation and Neighborhoods Department, and

WHEREAS, California Equity Management Group Inc. shall cause all improvements to be made, constructed and dedicated to fully comply with the requirements of the Modesto Municipal Code, the Improvement Plans, the Landscape Improvement Plans, and any changes or alterations in such work as may be required by the City Engineer.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement to Construct Improvements and Grant Revocable License between California Equity Management Group Inc. and the City of Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-623

RESOLUTION AMENDING SECTION 1 AND 2 OF RESOLUTION NO. 85-240 ENTITLED 'A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(371), (ROBERT L. ERICKSON)." AS PREVIOUSLY AMENDED BY RESOLUTION NO. 2006-056 (L STREET ARCHITECTS FOR CALIFORNIA EQUITY MANAGEMENT GROUP INC.)

WHEREAS, Planned Development Zone, P-D(371), was approved by the City Council by Ordinance No. 1616-C.S., which became effective on June 1, 1977, to allow the addition of a Family Amusement Machine Center to be added on property located on the south side of Briggsmore Avenue, east of Prescott Road, 2000 W. Briggsmore Avenue, and

WHEREAS, Modesto City Council Resolution No. 77-435, which was adopted on May 2, 1977, approved the development plan for Planned Development Zone, P-D(159), and

WHEREAS, the City Council, by Ordinance No. 2173-C.S., which was adopted on February, 15, 1983, and which became effective on March 17, 1983, amended Planned Development Zone, P-D(159), to allow an outdoor bicycle race course, and

WHEREAS, Modesto City Council Resolution No. 83-75, which was adopted on February, 15, 1983, approved an amendment to the development plan for Planned Development Zone, P-D(159), to allow an outdoor bicycle race course, and

WHEREAS, the City Council, by Ordinance No. 2327-C.S., which was adopted on May 7, 1985, and which became effective on June 6, 1985, amended Section 18-3-9 of the Zoning Map to rezone Planned Development, P-D(159), to Planned Development Zone, P-D(371), to allow a mini-storage facility as a permitted use, and

WHEREAS, the City Council, by Ordinance No. 3388-C.S., which was adopted on April, 26, 2005, and which became effective on May 27, 2005, amended Planned Development Zone, P-D(371), to allow all uses as permitted under the C-2 Zone, and

WHEREAS, Modesto City Council Resolution No. 2005-219, which was adopted on April 26, 2005, approved an amendment to the development plan for Planned Development Zone, P-D(371), to expand the list of allowed uses to include all uses allowed under the C-2 Zone, and

WHEREAS, Modesto City Council Resolution No. 2006-056, which was adopted on January 24, 2006, approved an amendment to development plan to allow the development of a commercial building on the property located on the south side of W. Briggsmore Avenue, east of Prescott Road, 2000 W. Briggsmore Avenue, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(371) was filed by L Street Architects on January 11, 2007, to allow a revised site layout, which includes the utilization of a portion of the public right-of-way for a slip ramp, signage and additional parking, on property located on the south side of Briggsmore Avenue, east of Prescott Road, 2000 W. Briggsmore Avenue.

WHEREAS, after a public hearing held on June 18, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-26, that the amendment to Planned Development Zone, P-D(371), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. Planned Development Zone, P-D(371) is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as "C" (Commercial), and the amendment to allow the development of slip ramp, signage, landscaping and additional parking will be consistent with the General Plan land use and intensity.

2. The proposed slip ramp and additional parking is compatible with the adjacent commercial uses. The parcels to the west and the south are zoned for commercial uses. The slip ramp will provide the site with a second point of access along on the western side of the property and increase the amount of available parking.

3. The proposed slip ramp will reduce traffic congestion at the intersection of Prescott Road and Briggsmore Avenue by providing a second point of access to the 2000 Briggsmore site.

WHEREAS, said matter was set for a public hearing of the City Council to be held on September 11, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, and

WHEREAS, the City Council continued the public hearing to September 25, 2007, to allow staff, the applicant and the Modesto Irrigation District (MID) additional time to resolve issues regarding MID right-of-way and the Agreement to Construct Improvements and Grant Revocable License, and

WHEREAS, the City Council continued the public hearing to October 2, 2007 to allow staff additional time to revise the Agreement to Construct Improvements and Grant Revocable License, and

WHEREAS, the City Council further continued the public hearing to October 23, 2007, to allow additional time for the staff and the applicant to review the Agreement to Construct Improvements and Grant Revocable License, and

WHEREAS, said matter was set for a duly noticed public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at 5:30 p.m. on October 23, 2007, at which time said public hearing was held and evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing the Council found and determined that the application of L Street Architects for an amendment to Planned Development Zone, P-D(371), should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-26 and quoted above.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 and 2 of Resolution No. 85-240 entitled "A Resolution Approving a Development Plan for Planned Development Zone, P-D(371), (Robert L. Erickson)." as previously amended by Resolution No. 2006-056 are hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. An amended development plan for Planned Development Zone, P-D(371), is hereby approved subject to the following conditions:

1. All previous conditions and requirements imposed on the site will remain in effect for this new proposal. All conditions of Planned Development Zone P-D(371), as stated in Council Resolution No. 2006-056, not in conflict with this action shall remain in full force and effect.

2. All development shall conform to the plot plan titled "Development Plan Briggsmore Plaza (File No. P-PDA-07-001)" as amended in red, stamped approved by the Planning Commission on June 18, 2007.

3. All signs shall comply with the sign requirements of the C-3 Zone except that the following signs as shown on the approved site plan shall be allowed:

    a. One freestanding business identification sign as defined in Code Section 10-2.2112(d) with a maximum height of 16 feet and a maximum sign area of 72 square feet, containing identification and advertising of tenants shall be allowed.

b. One gateway monument sign as defined in Code Section 10-2.2114(k), identifying the "Cornerstone Plaza" center. The gateway monument sign shall maintain a maximum height of 8 feet and a maximum signage area of 12 square feet.

4. The proposed slip ramp shall conform to City standards as outlined by the City Council Action of Expressway Access Policy approved September 18, 2001.

5. All private parking areas and connection roads within the City right-of-way shall be constructed in accordance with the standard structural section for residential streets as detailed in the City of Modesto Standard Specifications.

6. The property owner shall reimburse the City for the maintenance of the added slip ramp, the existing drainage basin, and streetlights along the added slip ramp. Maintenance responsibilities for these facilities shall be clearly indicated on all improvements plans.

7. Prior to the issuance of an encroachment permit, a closure plan shall be approved by the Director of Community and Economic Development, the Director of Public Works and the City Attorney or designees. The closure plan shall be consistent with the site plan approved by City Council Resolution 2006-056 and include the removal of all improvements in the City right of way.

8. Prior to the issuance of a encroachment permit, the applicant shall provide cash or cash equivalent securities for the implementation of the closure plan in an amount acceptable to the Director of Public Works or designee and in a form acceptable to the City Attorney.

9. In the event the City needs to recapture the Briggsmore Avenue right-of-way, the development at 2000 Briggsmore shall conform to the plot plan titled "Briggsmore Plaza Bldg. 2"" as amended in red, stamped approved by the Planning Director on 1-24-06 as conforming in principle to the development plan approved by City Council Resolution 2006-056 on January 24, 2006.

10. Prior to the issuance of an encroachment permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

11. Parking landscaping will be required to comply with current City Code requirements and provide one shade tree for every eight parking spaces.

12. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

13. Prior to issuance of an encroachment permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

14. Irrigation lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the Director of Public Works or designee. Easements for irrigation lines to remain shall be dedicated.

15. All outdoor lighting shall be shielded from adjacent residential properties as required by the Director of Public Works or designee.

16. Trash bins shall be kept in enclosures in accordance with plans approved by the Director of Public Works or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.

17. Trash enclosures for the project shall be bermed to prevent storm water run-off and graded to drain to adjacent landscape areas.

18. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as approved by the Public Works Director or designee. Storm drain improvements shall be constructed in accordance with the approved plans.

19. Prior to issuance of an encroachment permit, the developer shall show on the plans submitted to Building & Development Services all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

20. The Drainage basin shall meet the City of Modesto Standards Details and be clearly detailed on the improvements plans.

21. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

22. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

23. All conditions of City Council Resolution Nos. 85-240 and 2006-056 not in conflict with this resolution shall remain in full force and effect.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

24. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/ suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

25. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

26. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

27. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

28. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

29. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

30. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

31. Suspend excavation and grading activity when winds exceed 20 mph.

32. Limit the area subject to excavation, grading and other construction activity at any one time.

33. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

    The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

    a. A hammer or any other device or implement used to pound or strike an object.

    b. An impact wrench or other tool or equipment powered by compressed air.

    c. A hand-powered saw.

    d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

    e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

34. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K."

"SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(371):

The entire construction program shall be accomplished in one phase, construction to begin on or before September 11, 2009 and completion to be not later than September 11, 2010."

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-624

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(371), PROPERTY LOCATED ON THE SOUTH SIDE OF BRIGGSMORE AVENUE, EAST OF PRESCOTT ROAD, 2000 W. BRIGGSMORE AVENUE (L STREET ARCHITECTS FOR CALIFORNIA EQUITY MANAGEMENT GROUP INC.)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, California Equity Management Group Inc. has proposed an amendment to Planned Development Zone, P-D(371) to allow for a revised site plan, including the utilization of the public right-of-way for a slip ramp, signage and parking, on the property located on the south side of Briggsmore Avenue, east of Prescott Road, 2000 W. Briggsmore Avenue, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master Environmental Impact Report and whether the subsequent project was described in the Master Environmental Impact Report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2007-25 ("Initial Study") reviewed the proposed amendment to Planned Development Zone, P-D(371), to determine whether the project is within the scope of the project covered by the Modesto Urban Area

General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines begininning on August 20, 2007, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 23, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to Planned Development Zone, P-D(371), a copy of which is attached hereto as **Exhibit "A",** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures.

Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2007-25

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2007-25)

For the proposed:

Amendment to Planned Development P-D(371), P-PDA-07-001
(L Street Architects, Applicant)

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

May 8, 2007

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the **Amendment to (P-D)317 (P-PDA-07-001)** is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Addition of a Slip Ramp at 2000 Briggsmore, Amendment to Planned Development P-D(371), P-PDA-07-001

B. Address or Location: 2000 Briggsmore, east of Prescott Road

C. Applicant: L Street Architects

D. City Contact Person: David Wage

Project Manager:	David Wage, Assistant Planner
Department:	Community and Economic Development Department
Phone Number:	(209) 577-5302
E-mail address:	dwage@modestogov.com

E. Current General Plan Designation(s): "C" Commercial Land Use

F. Current Zoning Classification(s): Planned Development Zone, P-D(371), SubUse: C-2, General Commercial

G. Surrounding Land Uses:

North:	(C-1) Neighborhood Commercial
South:	(C-1) Neighborhood Commercial
East:	(R-2) Planned Development Zone, P-D(371)
West:	(C-1) Neighborhood Commercial

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The proposed amendment to P-D(371) is for a revised site layout, which includes the utilization of a portion of the public right-of-way for a slip ramp, signage and additional parking. The subject property is fairly unique due to the large strip of the Briggsmore Avenue public right-of-way located between the property line of the subject parcel and the physical street. The public right-of-way contains landscaping that was originally installed by the adjacent shopping center, but has since fallen into disrepair. The applicant is proposing to lease the unused right-of-way and incorporate the land into the site plan at 2000 Briggsmore. The proposed development includes the construction of a slip ramp located in the public right of way, which will draw traffic off of Briggsmore Avenue and provide the applicant with a second point of access along on the western side of the property. A seven-foot-wide landscaped median will be located between Briggsmore Avenue and the proposed slip ramp. A second six-foot- wide median will be located between the slip ramp and the parking area. The leased right-of-way will also be used for signage and 53 additional onsite parking spaces.

I. Other Public Agencies Whose Approval is Required:

None.

IIII. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2.____ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.____ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

David Wooge — Assistant Planner — May 8, 2007

Project Manager — Title — Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	X	☐

(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐
(4)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	X	☐
(5)	Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	X	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR.

Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

Discussion:
This is an application to amend to P-D(371) to allow the addition of slip ramp off of Briggsmore Avenue, as well as 53 additional parking spaces. The proposed slip ramp is consistent with City Standards. Currently the main access to the 2000 Briggsmore site is located at the intersection of Prescott and Briggsmore. The proposed slip ramp should alleviate traffic at the intersection. Due to the nature of the addition there will not be a significant decrease in existing road capacities or levels of service.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including

any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project.*

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

		YES	NO
(1)	Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.	☐	X

Note:
If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

		YES	NO
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

Discussion:

(1) Engineering and Transportation Staff reviewed the proposed project and found:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The project has been evaluated for compliance to the City of Modesto Parking

regulations. The design and layout of the proposed parking area will comply with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

Discussion:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a building addition for an existing church. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

Discussion:
Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

Discussion:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

Discussion:
The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project site and the surrounding property are located within a fully developed urbanized area, both inside and outside the corporate City limits.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

Discussion:
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	X

Discussion:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

Discussion:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant.*

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage

channels, detention basins, and other urban areas. *This cumulative impact is considered significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

Discussion:
Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore

would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

Discussion:
Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X

(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. ☐ X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project. It is not on or adjacent to any park sites, nor is it near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the

project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity; it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*
Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

Discussion:
(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is infill development that will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

2. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

Noise Measures:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

   The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

A. A hammer, or any other device or implement used to pound or strike an object.

B. An impact wrench, or other tool or equipment powered by compressed air.

C. A hand-powered saw.

D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K

Storm Drainage Measures:

The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-625

A RESOLUTION DENYING THE APPEAL OF QUALITY TYMES CORPORATION, DBA OCEANS 10 RESTAURANT, AND AKA SIN CITY NIGHTS AND UPHOLDING THE DECISION OF THE POLICE CHIEF REVOKING THEIR DANCE PERMIT

WHEREAS, Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights was issued a dance permit on July 9, 2007, by the City of Modesto imposing specific conditions for its operation; a copy of said dance permit is attached hereto and incorporated herein by reference as Exhibit "A", and

WHEREAS, by signing for receipt of the dance permit, the responsible party, Rosalind Mitchell acknowledged, read and agreed to comply with every required condition set forth in **Exhibit "A",** including an acknowledgment that any violation could result in revocation of the dance permit, and

WHEREAS, Modesto Municipal Code Section 4-1.413 authorizes the Police Chief to revoke or suspend a dance permit when violations of the permit occurs, and

WHEREAS, on August 24, 2007, based on a number of violations of the dance permit which had occurred, the Police Chief sent a Letter of Intent to Revoke to Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights, c/o Rosalind Mitchell (hereafter "Appellant") to revoke their dance permit, a copy of which is attached hereto and incorporated herein by reference as **Exhibit "B",** and

WHEREAS, by letter dated August 30, 2007, Appellant filed a notice of appeal with the Office of the City Clerk to the decision of the Police Chief revoking their dance permit, a copy of which is attached hereto and incorporated herein by reference as **Exhibit "C"**, and

WHEREAS, by an agenda report to the City Council from the Police Chief, dated September 10, 2007, City staff recommended the dance permit for Appellant be revoked, and

WHEREAS, this recommendation was based on nine violations of their dance permit as fully set forth in Exhibit "A", and

WHEREAS, by letter dated September 21, 2007, Appellant requested a continuance of the hearing on their appeal to October 9, 2007; said request was denied by the City Council, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at 5:30 p.m. on September 25, 2007, at which date and time said public hearing was held, the Appellant was present and evidence both oral and documentary was received and considered, and

WHEREAS, on September 25, 2007, by Resolution No. 2007-572 the City Council denied Appellant's appeal and modified the Police Chief's Letter of Intent to Revoke their dance permit by imposing a 30 day suspension until October 23, 2007, with a report due back to the City Council for determination as to the final status of the dance permit, and

WHEREAS, on September 28, 2007, September 29, 2007, October 5, 2007 and October 7, 2007, multiple violations of the suspension and other laws were observed and documented, attached hereto and incorporated herein by reference as Exhibit "C", and

WHEREAS, the Police Chief is recommending that the appeal of Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights be denied and their dance permit be revoked,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights, is hereby denied and the decision of the Police Chief revoking their dance permit is hereby affirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Marsh, O'Bryant
ABSENT:	Councilmembers:	Keating

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

DANCE PERMIT CONDITIONS
(with explanations in red)

1. **A California State Licensed/Certified Security Company or Guard shall provide security for the business. The company shall be licensed to do business in the City of Modesto.**

What this means is you should have one licensed, uniformed security guard from a security company that has a business license to conduct security services within the City of Modesto.

(a) All security guards shall be licensed, as provisioned by California State Statute or through the Modesto Police Department DED Guard Card Requirements.
(b) All security guard applicants must be able to meet the application requirements by the Department of Consumer Affairs for a guard card/license or by Modesto Police Department DED Guard Card Requirements.
(c) Upon receipt of guard card, a copy of guard card must be furnished to the Modesto Police Department to the attention of Leslie Rodriguez 48 hours of receipt of card.

All security guards currently employed and new hires shall have 60 days to come into compliance with the guard card requirements through the State or the Modesto Police Department.

This process is something all the clubs are working on coming into compliance. The handouts have been provided but here is a website **www.dca.ca.gov/bsis/lookup** this is called Proprietary Private Security Officer. Please work on this and get your employees on track.

There shall be at least one (1) security officer stationed at the entrance of the business during hours of dancing. These officers shall keep count of patrons entering and leaving the business by use of two mechanical counting device, one for those entering and one for those patrons exiting and made available for inspection by the police department upon demand.

This security person does not count as a member of the 1 to 50 ratio. The door person can not leave the door if there is a problem.

2. There shall be at least one (1) staff personnel stationed at every exit of the building.

An exit is any door or slider that can be used as an entrance or exit even though it is not being used, you must have a security person covering the door. This person also may not leave the door if there is a problem and is not counted in the 1 to 50 ratio.

3. There shall be one (1) state licensed Proprietary Private Security Officer per fifty (50) occupants inside the premises.

This again means there must be 1 security for every 50 persons in a night club. Example would be that if you have 300 people in the club, you need 6 security that are not assigned a door.

. If the facility is leased, subletted, or rented, the organization or individual must apply for a >Daily Dance Permit= application 15 days in advance of the event providing proof of security, and a copy of the lease agreement for use of the facility.

This means that if you let a group or organization rent the club for a night to have a private party that your dance permit does not cover that group. The renter must apply for and obtain a dance permit for them in their name for that night.

If Applicant/establishment is owned as a corporation or partnership, it shall provide to Modesto Police Department a full disclosure of all partners, and /or officers, including their addresses and phone numbers. Any changes in owners, their addresses or phone numbers must be reported to the Modesto Police Department within 3 business days of any changes.

This is why I met with you, Rosalind and Ron several months back and asked if you, (Tony) were the new owner. You had told people you had bought the business. If that happens MPD should be notified. We also need contact numbers that work so we can make contact with the proper people when there are issues.

This condition letter shall be posted along with the dance hall establishment permit in public view and available to law enforcement for inspection upon request.

This document and permit should be posted like your ABC license and available upon request by Law Enforcement. It must be the current documents and not expired documents like we had occur a few months back.

There shall be no topless dancing, nude dancing and/or male, female revues permitted on the premises at anytime or any violation to the Adult Entertainment Ordinance, MMC 5-9.101 through 5-9.407.

This is self explanatory. If you ever decide you want to do anything like this I would first contact ABC. They have very strict guidelines. The girls border the revue and I would recommend you speak with the city attorney.

Modesto Police Department is not responsible or required to send reminder notices regarding the renewal of a dance permit. The permit holder is responsible to file a dance permit application within 15 days of the expiration date. If the permit expires, the dance permit is no longer valid and enforcement or administrative fines may be levied.

Do not wait for us to contact you when your dance permit is due for renewal. It is your responsibility to get the permit filed in a timely manner.

As a condition of the issued dance permit, the Modesto Police Department must have on file at all times evidence of liability insurance naming the City of Modesto as an additional insured. Minimum liability amounts must be one million dollars ($1,000,000.00).

Be sure that we have this policy on file.

Facilities who hold a dance permit in the DED shall be operating and linked electronically to a centralized scanning system of an ID reader and a shared telecommunication system upon delivery of equipment.

This system is something I know you are working on. Here is some information shared with me from Brian Haddix. IT guy named Boris Marroquin. He helped the fellow at Copper Rhino with the ID scanner. Boris said he knew about cheaper alternatives including wireless handheld devices that did not require a laptop but still did the same functions. His e-mail is boris@osconex.com.

A Dance permit shall not be issued or renewed if the business license fees, filings and/or taxes are not current or paid in full.

We have received several notifications about your fees being delinquent and if that happens understand that your dance permit will not be re-issued.

Modesto Police Department may change or revise conditions of this dance permit with 48-hour written notice.

If there should ever be a new condition you will be notified within 48 hours.

Membership and attendance to the DED (Downtown Entertainment District) monthly meetings facilitated by DID (Downtown Improvement District) is required of a general manager and/or owner of facilities who hold dance permits in the DED area.

This means we want you to attend these meetings and play an active role. Be a part of the solution and not a part of the problem. Be a problem solver!

All private security guards and security staff/bouncers must be in a light colored (white, yellow, tan or light gray) shirts and outer layering with the following on the back of the shirts or outer layering in black or dark blue lettering: 'SECURITY'. Only black or blue lettering is permitted and no smaller than 4 inches in height. Lettering must be monogrammed, embroidered or silk-screened. The front of the shirts shall also display the name of the security company and/or the club name and 'SECURITY' in smaller, visible print. Dark colored pants are acceptable.

I think you have an understanding on this one now. The shirts must have the word SECURITY on the back in 4 inch letters. Club name or security firm on the front or sleeve of security person with the word SECURITY also visible on the front.

Occupancy for the premises shall be posted above the main entrance visible to the public and also posted above every bar(s) location within establishment.

At no time shall the occupancy exceed the rated number posted for occupancy. If it is determined that the premise is over their posted occupancy, the Police Department shall have the authority to restrict further entrance of patrons until the facility has abated their occupancy issue.

You have not had a problem with this, but be sure the occupancy is posted over the main entrance and do not exceed your limit.

Entertainment provided by the licensee shall not be audible beyond the entertainment venue under the control of the licensee.

You have not had a problem with this, but be sure the music from your business is not audible across the street and you will be fine.

Patrons shall be prohibited from >in-and-out= privileges to the club without paying a cover charge each and every time they re-enter the club or; if there is no cover charge, patrons must allow one hour before they re-enter the club on the same evening. The establishment is required to document such entrance and exit activity by electronic ID scanner or other verifiable means and must produce this to law enforcement upon demand.

This is an issue that can not happen. Patrons may not exit to smoke and then re-enter. This means that when someone leaves your business they must pay to re-enter and the re-entry can only happen after one hour has passed. There is no exception to this rule.

The licensee is responsible for the orderly disbursement of all patrons upon closing and within thirty (30) minutes prior to the establishments' closing time.

This means that you and your staff are responsible to clear your crowds in an orderly fashion. This should happen within thirty minutes and MPD should not have to step in unless there is a problem your staff can not handle.

Security staff will remain on the premises until all patrons have left the vicinity of the premises and surrounding neighborhoods when the business closes and discourage any loitering in the parking areas to business during and at the close of business.

This really says that you will help keep your crowd moving to their cars. If that

means following them into 10th Street Place then do so. If it means following them into the parking garage then do so. Again it is your responsibility, not MPD's.

At all time during hours of operation, the business shall remain open and accessible to law enforcement and the fire department.

Never been a problem and very self explanatory.

A soft close is authorized under the following conditions:

(a) Dancing shall cease at approximately 2:00 A.M., so that patrons can be cleared from the establishment by 3:00 A.M.
(b) All sales of alcohol must cease at 1:30 A.M.
(c) Consumption of alcohol must stop by 2:00 A.M. and drinks are to be collected and disposed of.
(d) No new patrons are to be allowed into the club after 1:30 A.M.
(e) No outside advertising of 'soft close' or after hours dancing.
(f) Patrons requesting taxi service or alternative transportation will be given reasonable assistance by the club management/security staff.
(g) Conditions to this soft close can be amended and the authorization
(h) The soft closing is revocable at any time by the Modesto Police Department.

This has been a problem for a long time, but you seem to have a grip on it right now and what you are doing is working. Move the crowd out in small waves of 25 to 30 people and keep them moving to their cars. This allows for small crowds to be moving and not large crowds all at once.

Licensee shall adhere to all conditions of their ABC license issued to the premises.

25. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under control of the licensee.

26. On duty employees for the business shall not consume alcoholic beverages or be under the influence of an alcoholic beverage on the premises during hours of operation.

27. Those areas adjacent to the business shall be maintained litter free. All litter shall be removed within (3) three hours of closing time.

You are a restaurant and not just a nightclub. Your license is based on that. You are in violation of your dance permit. You as an on duty employee may not consume alcoholic beverages. Upon many contacts with you I have detected the odor of alcoholic beverages from your breath. You can not do that and are in violation of your dance permit. You are to clear any litter in front of your club within three hours of closing. That includes your handbills given as people exit.

Any valid dance establishment permit holder that holds a special event shall notify the Modesto Police Department by electronic e-mail notification to include both CSO Leslie Rodriguez (Rodriguezl@modestopd.com and Lt. Ron Cloward Clowardr@modestopd.com not less than twenty four (24) calendar days in advance of the special event.

(a) A "special event" is defined as any live performance, concert, live music event, live entertainment or any person or persons providing musical entertainment with live or recorded music.

(b) The Modesto Police Department shall review the written notification of the special event and determine, based upon past experience and/or research, whether it is reasonably likely that the special event may draw a large attendance, evoke increased violence, noise, public drunkenness, drug-trafficking and other illegal activity.

This seems to be an area of great misunderstanding. Any event that may draw a crowd must be forwarded to MPD for review so we can be prepared for any crowd problems. You seem to be catching on to this and I appreciate your efforts.

The licensee agrees to pay for police services provided by the City of Modesto for costs of police services, as determined by the Chief of Police and are a result of public disorder arising from patrons of the establishment.

This has not happened to you, but I assure you it is in the future going to be an issue. If any crowd situation or event that causes the police department to respond and disburse crowds you will be billed for our services.

Any violations of these conditions, local ordinances or state laws may result in administrative fines, or the immediate suspension and/or revocation of the dance hall permit per Modesto Municipal Code 4-1.413 (Revocation of Permit).

This one I think you know first hand. Again understand that it can happen again and you must obey all rules and laws or fines, suspensions, and/or revocations may occur.

CC: Atty; CMO; Police Chief

City of Modesto
POLICE DEPARTMENT

Tenth Street
Modesto, California

Roy W. Wasden, Chief of Police

Main Office
P.O. Box 3313
Modesto, CA 95353
209.572.9500
209.523.4082 Fax

Administration
P.O. Box 1746
Modesto, CA 95353
209.572.9501
209.572.9669 Fax

Investigations
P.O. Box 1814
Modesto, CA 95353
209.572.9551
209.572.0741 Fax

Operations
P.O. Box 3313
Modesto, CA 95353
209.572.9565
209.523.4656 Fax

Support
P.O. Box 1746
Modesto, CA 95353
209.572.9519
209.523.9669 Fax

Letter of Intent to Revoke

Quality Times Corporation
C/O Rosalind Mitchell
4400 Gomes Rd
Modesto, Ca. 95354

August 24, 2007

Dear Ms. Mitchell

It is the intent of the Chief of Police of the Modesto Police Department to revoke your dance permit pursuant to:

4-1.413 MMC; Revocation of Permit.

A dance permit may be revoked or suspended by the Chief of Police of the City of Modesto upon five (5) days' notice to the holder thereof, for violation of any of the provisions of this article, or of any condition imposed upon any permit, or of any rule or regulation promulgated hereunder, or of any state or local law. *No person whose permit has been revoked shall be granted or issued a new permit, nor shall any new permit be granted or issued to any person who was or is an agent, employee or representative of the person whose permit was revoked unless the following conditions are satisfied:*

(a) Twelve (12) months or more have elapsed since the former permittee was notified of the intended revocation;

(b) The former permittee has, to the satisfaction of the Chief of Police, corrected all conditions and violations upon which the revocation was based or has provided to the Chief of Police acceptable plans for procedures reasonably likely to prevent future violations should the permit be reissued;

(c) Such other conditions as the Chief of Police may reasonably require. (Added by Ord. 2563-C.S., § 1, amended by Ord. 2613-C.S., § 1, effective 11-3-88)

Basis for Revocation

The basis for this revocation is related to multiple violations of the dance permit. These violations were observed and documented on June 17, 2007 by Detective Steve Stanfield under case number #07-56621 and on July 15, 2007 under case #07-67252 by Lieutenant Ron Cloward. The violations are as follows:

Violation #1 (June 17, 2007)

You were unable to present a copy of your current dance permit upon request. Once you found a copy of a dance permit it was the expired permit from previous months. This is a violation of **Condition Seven** of the dance permit, which states; ***This condition letter shall be posted along with the dance hall establishment permit in public view and available to law enforcement for inspection upon request.***

Violation #2 (June 17, 2007)

The performance of Go-Go dancers in cages is deemed a special event and no notification was made. This is a violation of **Condition Twenty-Eight** of the dance permit, which states; ***A "special event" is defined as any live performance, concert, live music event, live entertainment or any person or persons providing musical entertainment with live or recorded music.***

Violation #3 (June 17, 2007)

The ABC license was not posted as per the requirements of ABC. It was eventually located under the counter. This is a violation of **Condition Twenty-Four** of the dance permit, which states; ***Licensee shall adhere to all conditions of their ABC license issued to the premises.***

Violation #4 (July 15, 2007)

There was only one mechanical counter located at the front door to be used to count patrons entering only. This is a violation of **Condition Two** of the dance permit which states; ***There shall be at least one (1) security officer stationed at the entrance of the business during hours of dancing. These***

officers shall keep count of patrons entering and leaving the business by use of two mechanical counting device, one for those entering and one for those patrons exiting and made available for inspection by the police department upon demand.

Violation #5 (July 15, 2007)

There was no security staff stationed at the back door of the business during hours of dancing. This is a violation of **Condition Three** of the dance permit, which states; ***There shall be at least one (1) staff personnel stationed at every exit of the building.***

Violation #6 (July 15, 2007)

There were only six security personnel on staff for the night. The count I was given was 330 patrons inside. This is a violation of **Condition Four** of the dance permit, which states; ***There shall be one (1) state licensed and certified security guard per fifty (50) occupants inside the premises.***

Violation #7 (July 15, 2007)

The security personnel were wearing white T-shirts. Some of these T-shirts had no writing on them at all that identified them as "SECURITY". Others had the words, "Security" on the back only. This is a violation of **Condition Fifteen** of the dance permit, which states; ***All private security guards and security staff/bouncers must be in a light colored (white, yellow, tan or light gray) shirts and outer layering with the following on the back of the shirts or outer layering in black or dark blue lettering: 'SECURITY'. Only black or blue lettering is permitted and no smaller than 4 inches in height. Lettering must be monogrammed, embroidered or silk-screened. The front of the shirts shall also display the name of the security company and/or the club name and 'SECURITY' in smaller, visible print. Dark colored pants are acceptable.***

Violation #8 (July 15, 2007)

Patrons were leaving and re-entering the club at will. This is a violation of **Condition Nineteen** of the dance permit, which states; ***Patrons shall be prohibited from "in-and-out" privileges to the club without paying a cover charge each and every time they re-enter the club or; if there is no cover charge, patrons must allow one hour before they re-enter the club on the same evening. The establishment is required to document such entrance and exit activity by electronic ID scanner or other verifiable means and must produce this to law enforcement upon demand.***

Violation #9 (July 15, 2007)

As the night came to a close, patrons were being pushed out of the club at one time and security went back inside while people stood on the sidewalk outside. This is a violation of **Conditions Twenty-One and Twenty-Three** of the dance permit, which states; ***Security staff will remain on the premises until all patrons have left the vicinity of the premises and surrounding neighborhoods when the business closes and discourage any loitering in the parking areas to business during and at the close of business. The licensee is responsible for the orderly disbursement of all patrons upon closing and within thirty (30) minutes prior to the establishments' closing time.***

The Modesto Police Department has met with the staff and ownership of your business and discussed these issues listed above. As of July 21, 2007 the shirts were still the same, patrons were still being put out of the business at one time with no observations of the soft close. Patrons have also continued to enter and leave at will.

Discussions have also taken place with the staff and management regarding the need to implement the electronic identification scanning system as mentioned in the dance permits. The clubs in the DED are currently all coming online with their equipment. To date Tymeless has not made any contact or attempt to get online with this system.

This system is required per **Condition Eleven** of the dance permit, which reads;

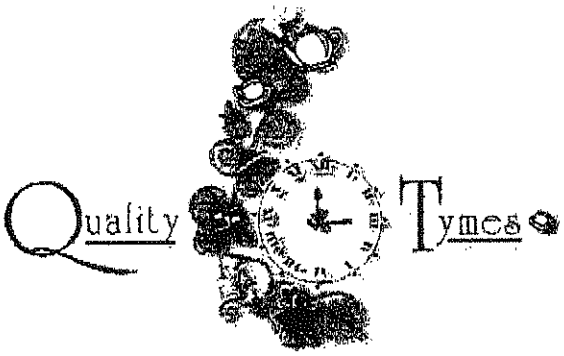
"Facilities who hold a dance permit in the DED shall be operating and linked electronically to a centralized scanning system of an ID reader and a shared telecommunication system upon delivery of equipment."

Due to the continued record of violations and refusal to comply with the conditions of your dance permit, the Modesto Police Department intends to revoke your dance permit as per 4-1.413 MMC.

The five day notice period required by the provisions of Modesto Municipal Code section 4-1.413 for the revocation of a dance permit commences with the personal service of this letter of intent, which will be served by Lt. Cloward on the date set forth below. The five day notice period will be calculated as five working days commonly defined as Monday through Friday, excluding holidays.

cc: Atty, CMO, Police Chief

RECEIVED
MODESTO CITY CLERK
07 AUG 30 AM 9:39



953 10th Street
Modesto, CA 95354

Notice Of Appeal
August 30, 2007

Quality Tymes operates *Oceans 10* restaurant providing elegant classic refined dining. Our dinner selections will be created by our Executive Chef featuring Pacific Rim Cuisine prepared simply and presented elegantly in an intimate setting.

Oceans 10 entertainment features *Sin City Nights* which provides a Las Vegas style entertainment setting for late night dining, dancing, and refreshments, with live and recorded music.

The development of the Quality Tymes Corporation business plan relies extensively on the existence of a dance permit. Our permit has been in place for over a year. We have worked hard during this year to provide vitality and high quality services to this location within the downtown redevelopment zone. We have worked tirelessly with city officials.

We have never been cited for any infractions. We have attended DED meetings as an active participant, and we have complied with all requests for modification of our business plan as they have occurred from all city offices. We believe we have fostered a solid constructive working relationship with Modesto Police to enhance the safety of the patrons we serve. Effective and timely communication has been an essential part of this relationship.

On August 23 we received two Administrative Citations. One day later, at midnight on August 24, we were served a Notice of Intent to Revoke our dance permit based on the citations received the day before. This was based on police reports filed over 30 days prior. We were never notified of police reports being filed concerning our business operating procedures, despite being in constant contact with the Police and requesting feedback on our operations.

Quality Tymes Corporation is appealing the Modesto Police Letter of Intent to Revoke based on five criteria outlined below:

for over 30 days is justified or in line with standards enforced for other similar organizations in the Downtown district.

The equitable enforcement of dance permit enforcement is the main criteria by which Quality Tymes does not believe our permit should be revoked. Without equitable enforcement of the permit requirements, the City of Modesto has created the ability to selectively allow one business to succeed while another is eliminated. The variances in enforcement of the dance permit regulations have been an issue that requires the immediate attention of the City Council in order to prevent the disruption of businesses trying to develop in the Modesto area.

The nature of each violation and concern noted in the Letter of Intent to Revoke and how it has been addressed are described below. We want to emphasize our continued willingness to work with the city officials responsible for enforcement of these measures. However, we request that you immediately grant our appeal or it jeopardizes our ability to continue our business.

Violation #1 6/17 - Copy of Dance Permit Not Posted

The Quality Tymes dance permit has been on display hanging on the wall three feet inside the front door. Newly hired staff had removed it while cleaning and had placed it under the counter at the front hostess station. It took less than 5 minutes to check the main office and under the counter to locate the permit. It has been hanging in its right spot since and staff has been educated on the fact that it is not to be moved. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. The situation has been corrected, and does not warrant the revocation of our dance permit.

Violation #2 6/17 – Introduction of "go-go dancers" deemed an "event"

There was no event on June 17, 2007. As part of our normal course of business, Quality Tymes hosts birthday parties, wedding receptions, dinners, and business receptions for up to 300 people. Many of these functions allow us to remain open to the public. On June 17, 2007 a customer hosted a birthday party under the name Sin City Nights. At the same time we initiated a change of format that includes some of the bartenders and hostesses acting as "go-go" dancers. This did not cause us to change our level of staffing or present any additional load on the public safety system, and therefore does not rise to the level of an event requiring prior notification. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. We are now identifying which nights include dancers in our regular monthly schedule notification to Modesto Police. This incident does not warrant the revocation of our dance permit.

Violation #3 6/17 - ABC License not posted

Cleaning had taken place where the ABC license, which has been on display since our opening on 12/31/2005, was taken down. The license was mistakenly placed under the counter instead of on the wall. In less than 5 minutes this oversight was corrected while the officers were present and the license remains on display as it always has. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. This incident does not warrant the revocation of our dance permit.

Violation #4 7/15 - Single mechanical counter

We use the electronic scanner as a counter for the number of people entering the building, and a single mechanical counter for the number of people exiting the building. We do this to help minimize the number of things the front door security must juggle in the event of trouble. We have not been notified that this is an unacceptable procedure. Backup mechanical counters are available on site so a two mechanical counter system can be used in the event of the failure of the electronic scanner. No concerns about our counting methods have been communicated to us. The method we use provides the necessary double count system to determine the number of people in the building. This incident does not warrant revocation of our dance permit.

Violation #5 7/15 - No staff at back door

It has been Quality Tymes' understanding from ABC regulations that there can be only one entrance and exit when liquor is being served. Under this definition, we considered the front door as our only exit and kept it staffed with security. Modesto Police has now clarified that their use of the term exit on the dance permit includes the fire exits which are not used as entrances during our hours of operation. The rear fire exit is now being staffed. This incident does not warrant revocation of our dance permit.

Violation #6 7/15 - 6 Security insufficient for 330 people

Quality Tymes' records show the security staff at 7 people on the night in question. This is sufficient staffing under the dance permit conditions. We share the Modesto Police concern about sufficient security staffing and our proud of our lack of major violent incidents at our facility. We are concerned that the Police officer did not check with management or the owners on site concerning the accurate count of the number of security staff on duty that evening. We are ensuring the door personnel know the accurate number of security working as well as providing refresher training on the importance of keeping an accurate door count.

Violation #7 7/15 - Security T-shirts not properly marked

The requirement for front markings on shirt had been overlooked on the first printing of new security uniforms. These are the shirts that were in use temporarily on July 15th. Replacement shirts with the necessary marking on the front identifying the wearer as security were ordered the next business day (Monday, 7/16). The printing for these shirts was completed on July 21. The shirts were placed in use that evening, 7/21. Modesto Police did speak with us about their concerns around the markings on the shirts. We took immediate action and the situation has now been corrected. This incident does not warrant revocation of our dance permit.

Violation #8 7/15 - Re-entry

Pending completion of the permit process for a permanent outside patio, Quality Tymes has negotiated an agreement with Lt. Cloward that allows patrons to exit the building and remain

within the crowd control ropes for the purpose of smoking without being considered "in and out". Patrons who exit the crowd control area must comply with the rules concerning "in and out" privileges. Modesto Police did speak with us about their concerns regarding compliance with re-entry policies. After some discussion they agreed that enforcement of the method we have described provides compliance with the re-entry policy. We are continuing our efforts to obtain a permit for a permanent outside patio which we expect to complete in the next 30-60 days. This incident does not warrant revocation of our dance permit.

Violation #9 7/15 - Disbursing crowd

Quality Tymes security regularly and completely disburses the crowd exiting our building. On the night in question, a neighboring business was vending food on the sidewalk after club closing hours. This resulted in a crowd forming in front of 949 10th Street business from patrons exiting other establishments on the street, which gave the appearance of spilling over in front of our establishment. Because our crowd was gone, our security did not remain on the street and were not available to assist in disbursing this gathering. Security procedures have been changed so that our security now maintains a presence on the street until all the other establishments in the neighborhood complete their close to ensure these people do not gather in front of our establishment. The sale of food products on the sidewalk next door to our establishment has been restricted. Modesto Police has mentioned to us that they felt we were not doing enough crowd disbursement. We have changed our closing procedures to allow more of our security presence, even after our crowd is disbursed, to ensure these other patrons do not gather in front of our establishment. This incident does not warrant revocation of our dance permit.

On 7/21 shirts were still the same

As stated above, the revised shirts were completed on 7/21/2007 and placed in service on that night for X-Fest. The letter of intent does not say whether the 7/21 observation was done after midnight on Friday, when the new shirts were not yet available from the printer, or before midnight on Saturday, when the new shirts were in use. We acted swiftly to correct this concern as soon as it was identified. The situation has been corrected and does not warrant the revocation of our dance permit.

7/21 No observation of Soft Close

Under the conditions of the dance permit, a soft close is authorized but not required. Our closing procedures involve shutting down portions of the facility starting at 1:15 AM in an attempt to begin moving customers out toward their destinations. At 1:50 AM we require patrons to exit the building. This allows us to disburse our customers from the street in the small time window between the crowds created by the closing of the much larger establishments around us. Since there is no requirement for a soft close, and there have been no public safety incidents as a direct result of our procedures, this concern does not warrant the revocation of our dance permit. Previous attempts to implement a soft close procedure have not been successful. We are continuing our discussions with Modesto Police to explore procedures that allow us to do an effective soft close.

7/21 Continued concerns with Re-entry

Pending completion of the permit process for a permanent outside patio, we have negotiated an arrangement with Lt. Cloward to allow patrons to exit the building and remain within the crowd control ropes for the purpose of smoking without being considered "in and out". Patrons who exit the crowd control area must comply with the rules concerning "in and out" privileges. Modesto Police did speak with us about their concerns regarding compliance with re-entry policies. After some discussion they agreed that enforcement of the method we have described provides compliance with the re-entry policy. We are continuing our efforts to obtain a permit for a permanent outside patio which we expect to complete in the next 30-60 days. This incident does not warrant revocation of our dance permit.

Electronic ID system

We are actively working with Tony of Copper Rhino to obtain the necessary software to come on-line with the DED system. Our commitment to complying with this requirement has been demonstrated by our purchase and use of the required hardware on June 26, 2007. We are already electronically scanning IDs as part of our screening process. The only reason we are not already on the system is the failure of the responsible person to provide us with the necessary software. We are actively coming into compliance with this requirement, along with the other establishments in the DED. This concern does not warrant the revocation of our dance permit.

We have noted in the past our objection to the fact that this process is under the control of the manager of an establishment which has a vested interest in the success or failure of other businesses in using the system. We want to renew our request that the control of steps needed for compliance with this requirement be placed with the DED or with Modesto Police.

"Continued Record of Violations"

There has been no record of violations prior to the issuance if the notice of intent. We have regularly met and discussed compliance issues with Modesto Police, but no violation notices have been issued. On August 22, 2007, obviously in conjunction with the Letter of Intent to Revoke, two Administrative Citations were issued each based on a date and incidents identified as violations above. This is our first written notification of any variance to the conditions of our dance permit. The copies of police reports attached to the Notice of Intent to Revoke are the first time we have seen that police reports have been filed regarding our business. All violations occurred on one date. There has been no continued record of violations.

"Refusal to comply with the conditions of your dance permit"

We have taken immediate steps to make the necessary changes to rectify the situation each time Modesto Police has identified a concern to us. At no time have we refused to comply with the conditions of our permit.

Copies of police reports

Quality Tymes was not made aware in a timely manner that police reports had been filled out concerning our business. The two reports attached to the Notice of Intent to Revoke are the first notification we have had of any formal activity by the Modesto Police. One of these reports is over 60 days old and pre-dates the renewal of our dance permit on June 30. The other report is over 30 days old. If these concerns rise to the level of revoking our dance permit, formal notification should have been given so corrective actions could be taken and identified before such drastic punitive action was taken.

Uneven enforcement

Quality Tymes feels the action of revoking our dance permit is an unreasonable response to the history and level of violations noted and our response to them. We are aware of other establishments in downtown who have had multiple violations of building, fire, and ABC regulations who have not had their dance permits revoked. Although several establishments were cited by the ABC during X-fest, dance permits have not been revoked based on those violations. Several establishments have had multiple, well publicized incidents requiring massive Police response and their dance permits have not been revoked.

Quality Tymes has not required massive Police response, excessive oversight, or expenditure of Police resources. However, we have continually been selectively reviewed for our compliance with the regulations without prior citations.

Finally, the Modesto Police have notified the DED that they do not intend to renew dance permits for establishments that hold a type 47 ABC license. This includes Quality Tymes. The ability to provide dining, dancing, and entertainment is a central component to the business plan for our downtown business. There is no provision in the regulations for denying a dance permit based on the type of ABC license.

If overuse of Police resources is a concern, Quality Tymes recommends restriction of permits based on conditions that are identified and not corrected in a timely manner. Furthermore, repeated violent incidents resulting in arrests and expenditure of Police resources should be considered.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-626

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE PRESIDENTIAL PRIMARY ELECTION A BALLOT MEASURE ENTITLED "THE ACCOUNTABILITY IN CITY HALL MEASURE OF 2008", AND RESCINDING RESOLUTION NO. 2007-596.

BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Pursuant to Article 11 of Section 3 of the California Constitution and Section 9255(a)(2) of the California Elections Code, and California Government Code Section 34458, the Council of the City of Modesto proposes to and does hereby, on its own motion, submit to the qualified electors of the City of Modesto, at the Presidential Primary election to be held on February 5, 2008, a ballot measure entitled "The Accountability in City Hall Measure of 2008".

SECTION 2. That a measure is to appear on the ballot as follows:

Shall the Modesto City Charter be amended to: upgrade mayor's duties/responsibilities; increase accountability of city departments by requiring city council to implement budget/policy priorities; establish an independent City Auditor; create a citizens' commission to recommend council salaries, impose mandatory salary caps on city council; require annual performance audits for key personnel; modernize accountability/disciplinary practices; and make deputy directors and attorneys "at will" employees?	**YES**	☐
	NO	☐

SECTION 3. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Stanislaus.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

BE IT FURTHER RESOLVED that Resolution No. 2007-596 is hereby rescinded upon the effective date of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 30th day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-627

A RESOLUTION APPOINTING LEILANI SAN NICHOLAS-GARCIA TO THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of LEILANI SAN NICHOLAS-GARCIA to the Citizens Advisory Committee on Recycling.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. LEILANI SAN NICHOLAS-GARCIA is hereby appointed to the Citizens Advisory Committee on Recycling with term expirations of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Citizens Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-628

A RESOLUTION APPOINTING CAROL D. DOLAN AND CHRIS RICCI TO THE COMMUNITY QUALITIES FORUM

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of CAROL D. DOLAN, a northwest resident, and CHRIS RICCI, a northeast resident, to the Community Qualities Forum.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. CAROL D. DOLAN, a northwest resident, and CHRIS RICCI, a northeast resident, are hereby appointed to the Community Qualities Forum with term expirations of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Community Qualities Forum, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

110707/CMO/Epuckett

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-629

A RESOLUTION APPOINTING ANTONY LITTLE TO THE CULTURE COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of ANTONY LITTLE to the Culture Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. ANTONY LITTLE is hereby appointed to the Culture Commission with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Culture Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-630

A RESOLUTION APPOINTING SAMANTHA JUAREZ TO THE EQUAL OPPORTUNITY/DISABILITY COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of SAMANTHA JUAREZ to the Equal Opportunity/Disability Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. SAMANTHA JUAREZ is hereby appointed to the Equal Opportunity/Disability Commission with a term expiration of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Equal Opportunity/Disability Commission and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-631

A RESOLUTION APPOINTING ALEXANDRA HOFFMAN TO THE HOUSING REHABILITATION LOAN COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of ALEXANDRA HOFFMAN to the Housing Rehabilitation Loan Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. ALEXANDRA HOFFMAN is hereby reappointed to the Housing Rehabilitation Loan Committee with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Housing Rehabilitation Loan Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-632

A RESOLUTION APPOINTING BRIAN HILL TO THE TUOLUMNE RIVER REGIONAL PARK CITIZENS ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of BRIAN HILL to the Tuolumne River Regional Park Citizens Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. BRIAN HILL is hereby appointed to the Tuolumne River Regional Park Citizens Advisory Committee with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Tuolumne River Regional Park Citizens Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-633

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF RICH ROSA FROM THE AIRPORT ADVISORY COMMITTEE

WHEREAS, RICH ROSA was appointed a member of the Airport Advisory Committee on December 11, 2001, and

WHEREAS, RICH ROSA has tendered his resignation from the aforementioned committee effective October 16, 2007, and

WHEREAS, RICH ROSA has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of RICH ROSA from the Airport Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to RICH ROSA for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-634

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF WILLIAM A. JAQUES FROM THE CITIZENS ADVISOROY COMMITTEE ON RECYCLING

WHEREAS, WILLIAM A. JAQUES was appointed a member of the Citizens Advisory Committee on Recycling February 25, 2003, and

WHEREAS, WILLIAM A. JAQUES has tendered his resignation from the aforementioned committee effective October 8, 2007, and

WHEREAS, WILLIAM A. JAQUES has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of WILLIAM A. JAQUES from the Citizens Advisory Committee on Recycling hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to WILLIAM A. JAQUES for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-635

A RESOLUTION APPOINTING THIRTEEN (13) MODESTO AREA HIGH SCHOOL STUDENTS TO THE CITY OF MODESTO YOUTH COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, as authorized by Resolution No. 89-443, principals from the High Schools within the City Limits of the City of Modesto have recommended students to serve as Modesto Youth Commissioners,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Five (5) Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a one-year term limit, as follows:

Big Valley High School
To be appointed at a later date

Davis High School
Johnathon Sample-Cruz

Downey High School
Ulysses Cisneros

Johansen High School
Breanna Reed

Modesto High School
Amy Howser

Valley Charter
Justina Staub

SECTION 2. Eight (8) Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a two-year term limit, as follows:

Beyer High School
Harleen Sethi

Big Valley High School
To be appointed at a later date

Central Catholic High School
Samantha Misslbeck

Davis High School
To be appointed at a later date

Downey High School
Kevin Sutherland

Enochs High School
Kaitlyn Reilly

Johansen High School

Modesto Christian High School

Mayra Garcia — Hilary McNeill

Modesto High School — Valley Charter High School
Elizabeth Lopez-Moya — Vanessa Rodriguez

SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the City of Modesto Youth Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-635

A RESOLUTION APPOINTING FOURTEEN (14) MODESTO AREA HIGH SCHOOL STUDENTS TO THE CITY OF MODESTO YOUTH COMMISSION.

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, as authorized by Resolution No. 89-443, principals from the High Schools within the City Limits of the City of Modesto have recommended students to serve as Modesto Youth Commissioners,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Four (4) Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a one-year term limit, as follows:

Big Valley High School
XXX

Davis High School
XXX

Johansen High School
XXX

Modesto High School
XXX

SECTION 2. Ten (10) Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a two-year term limit, as follows:

Beyer High School
XXX

Big Valley High School
XXX

Central Catholic High School
XXX

Davis High School
XXX

Downey High School
XXX

Enochs High School
XXX

Johansen High School
XXX

Modesto Christian High School
XXX

Modesto High School
XXX

Valley Charter High School
XXX

SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the City of Modesto Youth Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-636

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN EMPLOYMENT AGREEMENT WITH JAMES E. NISKANEN TO SERVE AS INTERIM CITY MANAGER OF THE CITY OF MODESTO FOR A LIMITED TERM EFFECTIVE JANUARY 7, 2008 THROUGH JUNE 30, 2008 AT A MONTHLY SALARY OF $14,650

WHEREAS, the City Council desires to enter into a limited term employment agreement to allow the City sufficient time to successfully complete the recruitment for City Manager, and

WHEREAS, the City Council desires to enter into an employment agreement with James E. Niskanen to serve as interim City Manager of the City of Modesto for a limited term effective January 7, 2008 through June 30, 2008 at a monthly salary of $14,650.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Mayor to sign an employment agreement with James E. Niskanen to serve as interim City Manager of the City of Modesto from January 7, 2008 through June 30, 2008, at a monthly salary of $14,650. Said employment agreement is attached hereto as **Exhibit "A"** and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO – JAMES E. NISKANEN
EMPLOYMENT AGREEMENT FOR A LIMITED TERM

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the Employee's group insurance plan with City reimbursement for Employee's out-of-pocket costs.

D. The Employer shall pay the amount of premium due for a term life insurance policy of $120,000. The Employee shall name the beneficiary of the life insurance policy.

Section 5: Vacation, Sick and Management/Executive Leave

A. The Employee shall accrue sick and vacation leave on an annual basis at the highest rate provided to non-sworn management employees. Employer agrees to provide Employee with an additional eighty (80) hours of vacation time effective January 7, 2008 to create a vacation bank to be used at a future date. The Employee's vacation accrual cap will not be in effect until six (6) months after the termination of this limited term agreement.

B. In the event the Employee's employment with the City of Modesto is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, all paid holidays, earned management/executive leave and other benefits to date.

C. The Employee shall on January 1, of each calendar year be credited with eighty (80) hours of executive/management leave or the highest amount credited to any non-sworn management employee, whichever is greater.

Section 6: Automobile

The Employer agrees to continue to pay the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of $4,800.00 per year, or $400.00 per month payable in equal monthly installments, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The Employee shall be responsible for paying liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair and regular replacement of said vehicle. The Employer shall reimburse the Employee at the IRS standard mileage rate for any business use of the vehicle beyond the greater Modesto area. For purposes of this Section, use of the car within the greater Modesto area is defined as travel to locations within a 75-mile radius of the Modesto City Hall.

Section 7: Retirement

A. The Employer agrees to continue enrollment of the Employee in the California Public Employees Retirement System (PERS). Employer shall pay 6.6% and Employee shall pay .04% of the total 7% "Employee's share," and Employer shall pay 100% of "Employer's share" on behalf of the Employee.

B. In addition to the Employer's payment to the state retirement system (as applicable) referenced above, Employer agrees to execute all necessary agreements provided by ICMA Retirement Corporation (ICMA-RC) or other Section 457 deferred compensation plan for Employee's continued participation in said supplementary retirement plan and, in addition to the base salary paid by the Employer to Employee, Employer agrees to pay an amount equal to two and one-half percent (2.5%) of Employee's base salary, into the designated plan on the Employee's behalf, in equal proportionate amounts each pay period. The

body that the Employee resign, then the Employee may declare a termination as of the date of the suggestion.

E. Breach of contract declared by either party within a 30-day cure period for either Employee or Employer. Written notice of a breach of contract shall be provided in accordance with the provisions of Section 21.

F. In the event the Employer terminates this Agreement during which time Employee is ready, willing and able to perform the functions and duties set forth herein, then, in that event, Employer agrees to:

1. Provide Employee with sixty (60) days prior written notice of said termination.

Section 10: Reinstatement to Previous Classification
Upon the appointment and/or start date of a City Manager or termination of Employee, Employer agrees that the Employee may be reinstated to the classification of Parks, Recreation and Neighborhoods Director, with all compensation, benefits and requirements that are in effect at the time of reinstatement. In the event that the Employee is appointed City Manager, this Agreement will expire and will be replaced with a new Agreement.

Section 11: Severance
A. Severance shall be paid to the Employee when employment is terminated as defined in Section 11.B.1.

B. In the event the Employer terminates this Agreement during which time Employee is ready, willing and able to perform the functions and duties set forth herein, then, in that event, Employer agrees to:

1. Provide Employee with sixty (60) days prior written notice of said termination.

Section 12: Resignation
In the event that the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of sixty (60) days advance notice unless the parties agree otherwise.

Section 13: Performance Evaluation
Employer may review the performance of the Employee subject to a process, form, criteria and format for the evaluation, which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within thirty (30) days of the evaluation meeting.

Section 14: Hours of Work
It is recognized that the Employee must devote a great deal of time outside of the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

with or in conflict with the provisions of this Agreement, the Modesto Charter or any other law.

Except as otherwise provided in this Agreement, the Employee shall be entitled to the highest level of benefits that are enjoyed by other non-sworn management employees of the Employer as proved in the Charter, Code, Personnel Rules and Regulations or by practice.

Section 20: Notices
Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal service, postage prepaid and addressed as follows:

EMPLOYER: City Clerk, City of Modesto, P.O. Box 642, Modesto, CA 95353
EMPLOYEE: James E. Niskanen, 3840 Ambrosia Lane, Modesto, CA 95356

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 21: General Provisions

A. Integration. This Agreement sets forth and establishes the entire understanding between Employer and Employee relating to the employment of the Employee by Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provisions of this Agreement during the life of the agreement. Such amendments shall be incorporated and made part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on January 7, 2008.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-637

Print

A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND JERRY HAAG, FOR PLANNING SUPPORT SERVICES FOR THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT, FOR AN ADDITIONAL AMOUNT OF $50,000, FOR A TOTAL AMOUNT NOT TO EXCEED $149,999 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on November 14, 2005, the City of Modesto entered into a Standard Agreement for consultant services with Jerry Haag, Planning Consultant, to provide planning services for the Community & Economic Development Department, in an amount not to exceed $49,000, and

WHEREAS, on November 14, 2006, the contract was amended to extend the term of agreement to continue in effect until City's acceptance of and payment for all services authorized by City and performed by Consultant, and

WHEREAS, on January 9, 2007, by Resolution No. 2007-048, the contract was amended to provide for additional services and additional compensation for an additional amount of $50,000, not to exceed $99,999, and

WHEREAS, the Planning Division performs a number of tasks requiring consultant planning services, and

WHEREAS, due to workload levels and staffing shortfalls, consultant planning services are necessary to augment planning services already provided by the Planning Division, and

WHEREAS, contract planning assistance is necessary to assist the City to efficiently manage the specific plan project load in a manner that is responsive to the City's customers, and

WHEREAS, there are currently six specific plan proposals underway in the City, and

WHEREAS, Jerry Haag is currently providing planning services on a time and materials basis, to manage two specific plans and related Environmental Impact Reports: Woodglen and Pelandale-McHenry, and

WHEREAS, in accordance with the Standard Agreement, Jerry Haag has been providing consultant planning services since November 14, 2005, and the contract amount of $99,999 has almost been reached, and

WHEREAS, in order to continue the review and processing of the current specific plan case load, the Community and Economic Development Department is proposing an Amendment No. 3 to the Standard Agreement for Consultant Services with Jerry Haag for an additional amount of $50,000, for a total amount not to exceed $149,999, and

WHEREAS, Jerry Haag's assistance is needed to complete the processing of two specific plans nearing completion, Woodglen and Pelandale-McHenry, and

WHEREAS, Jerry Haag is familiar with these projects and his oversight is needed for these projects to proceed forward in a timely manner, and

WHEREAS, Jerry Haag is familiar with the City's standards, policies, and operating procedures, having provided prior services in conjunction with the City's overall urban and environmental planning efforts, and has demonstrated satisfactory services to the City on past and current projects, and

WHEREAS, Jerry Haag is also qualified to provide the requested consultant planning services in a timely and cost effective manner, and

WHEREAS, Jerry Haag has intimate knowledge of coordinating with City staff in furtherance of planning services and conferring with and advising City staff regarding environmental laws, regulations, and policies, and

WHEREAS, funding for the services to the Community and Economic Development Department is allocated in the FY 07/08 CEDD budget in the amount of $15,000 to come from undetermined developer-funded projects located in fund 0800, $15,000 in account 0800-140-1447-0235 and $20,000 in account 0800-140-1452-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 3 to the Standard Agreement for Consultant Services between the City of Modesto and Jerry Haag, Planning Consultant, for consultant planning services for the Community & Economic Development Department, Planning Division for an additional amount of $50,000, for a total amount not to exceed $149,999.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-638

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND PACIFIC MUNICIPAL CONSULTANTS (PMC), FOR PLANNING SUPPORT SERVICES FOR THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT, FOR AN ADDITIONAL AMOUNT OF $100,000, FOR A TOTAL AMOUNT NOT TO EXCEED $280,000 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on December 12, 2006, by Resolution No. 2006-768, the City of Modesto entered into a Standard Agreement for consultant services with Pacific Municipal Consultants (PMC) to provide planning services for the Community & Economic Development Department, in an amount not to exceed $180,000, and

WHEREAS, the Planning Division performs a number of tasks requiring consultant planning services, and

WHEREAS, due to workload levels and staffing shortfalls, consultant planning services are necessary to augment planning services already provided by the Planning Division, and

WHEREAS, contract planning assistance is necessary to assist the City to efficiently manage the specific plan project load in a manner that is responsive to the City's customers, and

WHEREAS, PMC is currently providing planning services on a time and materials basis, to assist with managing the Kiernan Business Park East Specific Plan Amendment, and

WHEREAS, the Planning Division has also used PMC's services to assist on a number of high-priority infill projects, such as the Gould Medical Center expansion and the Vintage Faire Mall expansion, and

WHEREAS, as with the specific plans, a majority of these projects have been applicant-funded through the payment of time-and-material fees, and

WHEREAS, in accordance with the Standard Agreement, PMC has been providing consultant planning services, and $163,073.09 of the original contract amount of $180,000 has been expended, and

WHEREAS, in order to satisfy on-going needs, the Community and Economic Development Department is proposing an amendment to the Standard Agreement for Consultant Services with Pacific Municipal Consultants for an additional amount of $100,000, for a total amount not to exceed $280,000, and

WHEREAS, PMC is familiar with the City's standards, policies, and operating procedures, having provided prior services in conjunction with the City's overall urban and environmental planning efforts, and has demonstrated satisfactory services to the City on past and current projects, and

WHEREAS, the Planning Division anticipates processing several complex and high-priority projects in the near future in which PMC's experience and expertise will greatly assist in expediting, and

WHEREAS, funding for the services to the Community and Economic Development Department is allocated in the FY 07/08 CEDD budget in the amount of $25,000 in account 0100-140-1430-0235, with the remaining $75,000 to come from various developer funded projects located in fund 0800,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 1 to the Standard Agreement for Consultant Services between the City of Modesto and Pacific Municipal Consultants for consultant

planning services for the Community & Economic Development Department, Planning Division for an additional amount of $100,000, for a total amount not to exceed $280,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-639

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A PARKING LOT SWEEPER TO MASCO SWEEPERS, INC., SANTA CLARA, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $53,151.

WHEREAS, on August 2, 2006, Council approved Resolution No. 2006-245 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 06/07 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, on July 10, 2007, the Purchasing Division issued RFB No. 0607-41 for the purchase of a parking lot sweeper to five (5) prospective bidders, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on August 28, 2007, RFB's were formally opened in the City Clerk's office. Of the five (5) prospective bidders, one company chose to respond with two (2) different manufacture vehicles. The bidder provided responsive and responsible bids, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of a parking lot sweeper for the Public Works Department, Fleet Services Division, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following account for the purchase of a parking lot sweeper for FY 07/08, account number 7210-480-5814-5721,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of a parking lot sweeper to Masco Sweepers, Inc., Santa Clara, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for an estimated total cost of $53,151.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-640

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A TRUCK WITH UTILITY BODY AND CRANE TO BROADWAY FORD, OAKLAND, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $68,338.

WHEREAS, on August 2, 2006, Council approved Resolution No. 2006-245 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 06/07 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, on July 5, 2007, the Purchasing Division issued RFB No. 0607-40 for the purchase of a truck with utility body and crane to thirty (30) prospective bidders, five (5) of which were local companies, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on July 12, 2007, a bidders conference was held. Three (3) companies were in attendance, and

WHEREAS, on August 28, 2007, RFB's were formally opened in the City Clerk's office. Of the thirty (30) prospective bidders, two (2) companies chose to respond. All bidders provided responsive and responsible bids, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of a truck with utility body and crane for the Public Works Department, Fleet Services Division, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following account for the purchase of a truck with utility body and crane for FY 07/08, account number 7210-480-5814-5708,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of a truck with utility body and crane to Broadway Ford, Oakland, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for an estimated total cost of $68,338.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-641

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF BALLISTIC VESTS FOR THE MODESTO POLICE DEPARTMENT, TO LC ACTION POLICE SUPPLY, SAN JOSE, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE AN ANNUAL PURCHASE AGREEMENT FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL TOTAL COST OF $39,343

WHEREAS, the Modesto Police Department provides ballistic vests for all of its sworn and some civilian positions, and

WHEREAS, a custom fitted vest is provided at the time of hire and current personnel are provided a replacement vest every five (5) years, and

WHEREAS, on July 10, 2007, Council approved Resolution No. 2007-419 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of ballistic vests for the Modesto Police Department, and

WHEREAS, on August 13, 2007, the Purchasing Division issued Request for Bid No. 0708-05 for the purchase of ballistic vests to ten (10) prospective bidders, one of which was a local company, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on August 22, 2007, a bidders conference was held, two (2) companies were in attendance, and

WHEREAS, on September 11, 2007, RFB's were formally opened in the City Clerk's office, of the ten (10) prospective bidders, three (3) companies chose to respond, and

WHEREAS, one company submitted a non-responsive and non-responsible bid and the bid submittal was rejected, and

WHEREAS, based on being deemed the lowest responsive and responsible bidder, City staff recommends the award of bid and contract for the for the purchase of ballistic vests for the Modesto Police Department, to LC Action Police Supply, San Jose, CA, and authorizing the Purchasing Manager to issue an annual purchase agreement for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual total cost of $39,343 and

WHEREAS, the Modesto Municipal Code, MMC 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of ballistic vests for the Modesto Police Department conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following account for the purchase of ballistic vests in FY 07/08, account number 0100-190-1921-0356, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of ballistic vests for the Modesto Police Department to LC Action Police Supply, San Jose, CA, and authorizing the Purchasing Manager to issue an annual purchase agreement for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual total cost of $39,343

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue an annual purchase agreement for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual total cost of $39,343.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-642

A RESOLUTION REJECTING A BID FOR THE REPAIR AND/OR REPLACEMENT OF SEVEN (7) CITY OWNED RESTROOM ROOFS FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE AN INFORMAL REQUEST FOR BIDS AND AWARD A PURCHASE AGREEMENT FOR THE REPAIR OF FOUR (4) CITY OWNED RESTROOM ROOFS, AT AN ESTIMATED TOTAL COST OF $25,000

WHEREAS, the Parks, Recreation and Neighborhoods Department is responsible for the maintenance of all City owned park sites, and

WHEREAS, park sites include restroom facilities that, in many cases, are facilities that were built 30 to 45 years ago, and

WHEREAS, over this period of time, roofs have been patched and repaired to prevent leaking. Because some of these roofs have been patched and repaired continuously, many of them have dry rot damage that can no longer be repaired, and

WHEREAS, a thorough review of the park sites and an analysis of the roofing structures determined that the roofs on the restrooms at Marshall Park, Cesar Chavez Park, and Breadbrook Park have significant dry rot damage and are in need of complete re-roofing including replacement of trusses, and

WHEREAS, during the review of restrooms roofs, it was determined that the roofs on the restrooms at East La Loma Park, Revard Park, Lakewood Park, and Sipherd Park are in need of repair due to leakage, and

WHEREAS, on February 27, 2007, Council approved Resolution No. 2007-133 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) to re-roof three (3) City owned restrooms and repair roofs on four (4) City owned restrooms for the Parks, Recreation and Neighborhoods Department, and

WHEREAS, on April 9, 2007, the Purchasing Division issued Request for Bid No. 0607-43 for the repair/replacement of seven (7) City owned park restrooms to twenty-seven (27) prospective bidders, twenty (20) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on April 17, 2007, a bidders conference was held, four (4) companies were in attendance, and

WHEREAS, on May 8, 2007, RFB's were formally opened in the City Clerk's office. Of the twenty-seven (27) prospective bidders, only one company chose to respond, and

WHEREAS, the engineer's estimate and the bids are considered reasonable when any of the bids are within 10% of the engineer's estimate, and

WHEREAS, in the current circumstance, however, the sole bid for the project was above the engineer's estimate by three (3) fold. The engineer's estimate for this project is $65,000 and the sole bid amount is $194,565, and

WHEREAS, bidder competition and participation was not evident in the bidding of this project, perhaps due to the small dollar amount of the estimated contract work ($65,000), and

WHEREAS, City staff recommends Council adopt a resolution rejecting the bid for the repair and/or replacement of seven (7) City owned restroom roofs for the Parks, Recreation and Neighborhoods Department, and authorizing the Purchasing Manager to issue informal Request for Bids and award a purchase agreement for the repair of four (4) City owned restroom roofs, at an estimated total cost of $25,000, and

WHEREAS, the Parks, Recreation and Neighborhoods Department will redesign the roof replacement for the three (3) park restrooms, becoming a Public Works project, and

WHEREAS, Modesto Municipal Code Section 8-3.204 states in part; 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) 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, and

WHEREAS, the issuance of an informal Request for Bid for the repair of four (4) City owned restroom roofs, conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Council adopt a resolution rejecting a bid for the repair and/or replacement of seven (7) City owned restroom roofs for the Parks, Recreation and Neighborhoods Department, and

SECTION 2. the Purchasing Manager shall issue an informal Request for Bids and award a purchase agreement for the repair of four (4) City owned restroom roofs, at an estimated total cost of $25,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmemeber Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-643

A RESOLUTION ACCEPTING STAFF REVIEW OF LANDSCAPE MAINTENANCE SERVICE AGREEMENT WITH GROVER LANDSCAPE SERVICES, INC. FOR MAINTENANCE OF CITY OF MODESTO PARKS AND OTHER OPEN SPACE

WHEREAS, City of Modesto Parks, Recreation and Neighborhoods Department, Parks Services Division, is responsible for landscape maintenance services to over 530 acres of landscaping for 66 parks and approximately 150 other landscaped sites including public buildings, street medians, sound walls, traffic islands and other miscellaneous sites, and

WHEREAS, funding for this maintenance is provided primarily by the City's General Fund, although a number of sites are funded from other sources including the Tuolumne River Regional Park JPA, Parking Fund, Storm Drain Fund and several Community Facility Districts, and

WHEREAS, on November 22, 2005, by Resolution No. 2005-581, the City Council authorized the award of proposal for the furnishing of landscape maintenance services to Grover Landscape Services, Inc. and directed staff to negotiate a Landscape Maintenance Service Agreement (Agreement) with Grover Landscape Services, Inc. for parks, right-of-ways and public landscaping owned and/or maintained by the City of Modesto, and

WHEREAS, on March 7, 2006, by Resolution No. 2006-134, the City Council approved a Landscape Maintenance Service Agreement, effective March 21, 2006, between Grover Landscape Services, Inc. (Grover) and the City, and

WHEREAS, the agreement outlined funding strategies and the implementation of the outsourcing of park and open space maintenance services throughout the City, and

WHEREAS, staff has worked closely with Grover to ensure that the provisions of the Agreement and the responsibilities of each party are met, and

WHEREAS, the overall appearance and health of the City's parks and other open space has improved due to increased service levels made possible by the Agreement, and

WHEREAS, the Finance Committee met on September 24, 2007 and supported acceptance of the staff review of the Landscape Maintenance Service Agreement with Grover Landscape Services, Inc. for maintenance of City of Modesto parks and other open space,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts the staff review of the Landscape Maintenance Service Agreement with Grover Landscape Services, Inc. for maintenance of City of Modesto parks and other open space.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-644

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH GROVER LANDSCAPING SERVICES, INC. TO AMEND THE SCOPE OF WORK TO REMOVE TASKS THAT WERE NOT INCLUDED IN THE NEGOTIATED AGREEMENT AND ASSOCIATED COSTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT.

WHEREAS, City of Modesto Parks, Recreation and Neighborhoods Department, Parks Services Division, is responsible for landscape maintenance services to over 530 acres of landscaping for 66 parks and approximately 150 other landscaped sites including public buildings, street medians, sound walls, traffic islands and other miscellaneous sites, and

WHEREAS, funding for this maintenance is provided primarily by the City's General Fund, although a number of sites are funded from other sources including the Tuolumne River Regional Park JPA, Parking Fund, Storm Drain Fund and several Community Facility Districts, and

WHEREAS, on November 22, 2005, by Resolution No. 2005-581, the City Council authorized the award of proposal for the furnishing of landscape maintenance services to Grover Landscape Services, Inc. and directed staff to negotiate a Landscape Maintenance Service Agreement (Agreement) with Grover Landscape Services, Inc. for parks, right-of-ways and public landscaping owned and/or maintained by the City of Modesto, and

WHEREAS, on March 7, 2006, by Resolution No. 2006-134, the City Council approved a Landscape Maintenance Service Agreement, effective March 21, 2006, between Grover Landscape Services, Inc. (Grover) and the City, and

WHEREAS, the original Request for Proposal Scope of Work included several tasks that some bidders believed it was not possible to accurately assign a cost to, due to existing conditions being unknown and specific sites being unidentified, and

WHEREAS, these tasks were turf leveling, infield edging, baseball infield turf renovation and athletic field turf renovation, and

WHEREAS, the determination was made to remove these tasks and their associated costs from the negotiated Agreement, and

WHEREAS, a review of the Scope of Work that was included with the approved Agreement found that these four tasks were inadvertently left in, and

WHEREAS, staff is recommending that the Scope of Work be amended to accurately reflect the tasks agreed to by both parties, and to remove the tasks that were not included in the negotiated Agreement and associated costs, and

WHEREAS, the Finance Committee met on September 24, 2007, and supported amending the Scope of Work in the Landscape Maintenance Service Agreement with Grover Landscaping Services, Inc. to remove tasks that were not included in the negotiated Agreement and associated costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Amendment to the Agreement with Grover Landscaping Services, Inc. to amend the Scope of to remove tasks that were not included in the negotiated agreement and associated costs.

BE IT FURTHER RESOLVED that the City manager, or his designee, is hereby authorized to execute the Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-645

A RESOLUTION APPROVING AN AGREEMENT WITH PACIFIC DESIGN ASSOCIATES, INC. FOR PROFESSIONAL ARCHITECTURAL SERVICES TO PREPARE DESIGN DEVELOPMENT AND CONSTRUCTION DOCUMENTS FOR THE JOHN THURMAN FIELD IMPROVEMENTS PROJECT AT A COST NOT TO EXCEED $157,500.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Modesto currently owns John Thurman Field located at 601 Neece Drive, and

WHEREAS, the Stadium was built in 1955 and updated in the late 1990's, and

WHEREAS, last year the City of Modesto entered into a ten-year agreement with the Modesto Nuts which included $3,000,000 in improvements to be done in the Stadium in the next few years, and

WHEREAS, Phase I, Press Box Expansion and Viewing Deck Addition, is anticipated to be complete by opening day of baseball season in 2008, and

WHEREAS, an RFP was distributed to twenty-four (24) architectural service providers in August 2007 for the three additional phases of development, and

WHEREAS, three (3) firms responded to the RFP and submitted a proposal by the September 10, 2007, deadline, and

WHEREAS, the six-member selection panel reviewed the proposals and made the determination to interview all three architectural firms, and

WHEREAS, on October 2, 2007, the selection panel reviewed the proposals and interviewed all three firms and determined that Pacific Design Associates, Inc. was the most qualified firm to complete this project, and

WHEREAS Pacific Design Associates, Inc. has agreed to provide Design Development and Construction Documents at a cost not to exceed $157,500.00, and

WHEREAS, the design will be developed using a collaborative effort between the City of Modesto and the Modesto Nuts staff,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Agreement with Pacific Design Associates, Inc. for professional architectural services to prepare Design Development and Construction Documents for the John Thurman Field Improvements Project at a cost not to exceed $157,500.00.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-646

A RESOLUTION AMENDING THE FISCAL YEAR 2007-08 CAPITAL IMPROVEMENT BUDGET TO INCREASE THE ENGINEERING/DESIGN/ ADMINISTRATION OBJECT 6010 IN THE THURMAN FIELD IMPROVEMENTS PROJECT #1400-310-P854 BY $40,000 TO PROVIDE AVAILABLE FUNDING IN THE AMOUNT OF $187,500 AND TO DECREASE THE CONSTRUCTION OBJECT 6040 IN THE THURMAN FIELD IMPROVEMENTS PROJECT #1400-310-P854 BY $40,000 TO $2,660,000.

WHEREAS, the City of Modesto currently owns John Thurman Field located at 601 Neece Drive, and

WHEREAS, the Stadium was built in 1955 and updated in the late 1990's, and

WHEREAS, last year the City of Modesto entered into a ten-year agreement with the Modesto Nuts which included $3,000,000 in improvements to be done in the Stadium in the next few years, and

WHEREAS, Phase I, Press Box Expansion and Viewing Deck Addition, is anticipated to be complete by opening day of baseball season in 2008, and

WHEREAS, an RFP was distributed to twenty-four (24) architectural service providers in August 2007 for thee three additional phases of development, and

WHEREAS, three (3) firms responded to the RFP and submitted proposals by the September 10, 2007, deadline, and

WHEREAS, on October 2, 2007, the selection panel interviewed all three firms and determined that Pacific Design Associates, Inc. was the most qualified firm to complete this project, and

WHEREAS Pacific Design Associates, Inc. has agreed to provide Design Development and Construction Documents at a cost not to exceed $157,500.00, and

WHEREAS, the design will be developed using a collaborative effort between the City of Modesto and the Modesto Nuts staff, and

WHEREAS, a budget adjustment is needed to reallocate funds within the project and award a contract to Pacific Design Associates, Inc. to complete this work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal year 2007-08 Capital Improvement budget to increase the Engineering/Design/Administration object 6010 in the Thurman Field Improvements project #1400-310-P854 by $40,000 to provide available funding in the amount of $187,500 and to decrease the Construction object 6040 in the Thurman Field Improvements project #1400-310-P854 by $40,000 to $2,660,000.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-647

A RESOLUTION APPROVING AN AGREEMENT FOR CONCESSION SERVICES BETWEEN THE CITY OF MODESTO AND REESE DENSMORE, A SOLE PROPRIETOR, DBA THE DISC GOLF STORE AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, in early July 2007, Resse Densmore approached the City of Modesto regarding the placement of a concession trailer in East La Loma Park, and

WHEREAS, Mr. Densmore is interested in selling disc golf products, as well as pre-packaged food concession to visitors to the East La Loma Park, specifically the golfers utilizing the disc golf course located in East La Loma Park and Dry Creek Regional Park, and

WHEREAS, after several discussions and site visits, staff from the Parks, Recreation and Neighborhoods Department and Mr. Densmore found a location that was mutually agreeable, and

WHEREAS, after agreeing on a suitable location, a contract agreement was drafted to allow Mr. Densmore the opportunity to operate a concession trailer, on a pilot program basis, to see if there is large enough customer base to support a concession trailer at the East La Loma site, and

WHEREAS, currently, there are no concession vendors that regularly serve this park, and no legal vendors that service the disc golfers and their equipment needs, and

WHEREAS, through this arrangement, the City of Modesto will be able to ascertain if there is a large enough customer base to support a concession trailer, and

WHEREAS, the City will receive ten percent (10%) of gross sales from the arrangement, in exchange for the utilization of park property, and

WHEREAS, if the concession trailer concept is successful, the City of Modesto can decide to continue the concession trailer arrangement, or invest in a more permanent concession arrangement, and

WHEREAS, the Safety and Communities Committee met on October 1, 2007, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Agreement for Concession Services with Reese Densmore, a sole proprietor, dba The Disc Golf Store.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-648

A RESOLUTION AMENDING THE BYLAWS OF THE SOLID WASTE ADVISORY COMMITTEE TO DELETE THE REQUIREMENT THAT CITIZEN REPRESENTATIVES BE EITHER "CITIZEN/CONSUMERS" OR "CITIZEN/NON-PROFITS", AND DIRECTING STAFF TO PROCEED WITH THE RECRUITMENT OF ADDITIONAL CITIZEN REPRESENTATIVES TO SERVE ON THE SOLID WASTE ADVISORY COMMITTEE

WHEREAS, on April 25, 2006, by Resolution No. 2006-235, the Council approved the formation of a Council-appointed Solid Waste Advisory Committee, and

WHEREAS, the Committee provides rate setting recommendations to the City Council for garbage rates and compost facility tip fees, and advisory input into modifications or expansions of the City's compost facility operations, and

WHEREAS, under the current by-laws, the Committee is comprised of the Deputy City Manager, the Finance Director, the Public Works Director, two "citizen/consumer" representatives, and two "citizen/non-profit" representatives, and

WHEREAS, since the Committee was originally formed, staff has conducted a continuous recruitment for citizen representatives, and has successfully filled the two "citizen/consumer" memberships, and

WHEREAS, the two "citizen/non-profit" memberships remain unfilled, despite outreach efforts, and

WHEREAS, in order to increase the citizen representation on the Committee, staff is recommending that the by-laws be amended to delete the identification of citizen representatives as either "consumers" or "non-profits" and that staff be directed to proceed with the recruitment of citizen representatives, and

WHEREAS, the Economic Development Committee met on October 8, 2007 and supported staff's recommendation to amend the by-laws,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the bylaws of the Solid Waste Advisory Committee to delete the requirement that citizen representatives be either "citizen/consumers" or "citizen/non-profits".

BE IT FURTHER RESOLVED that staff is hereby directed to proceed with the recruitment of additional citizen representatives to serve on the Solid Waste Advisory Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-649

A RESOLUTION APPROVING AN AGREEMENT WITH MODESTO SENIOR CITIZENS INC. (MSCI) TO ACCEPT A $5,000 DONATION TO PROVIDE IMPROVEMENTS TO THE KITCHEN AT THE MODESTO SENIOR CITIZENS CENTER, AND TO REAFFIRM FACILITY USAGE RATES AT THE MODESTO SENIOR CITIZENS CENTER AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, on October 10, 1977, by Resolution No. 77-1044, Modesto Senior Citizens, Inc. (MSCI), a non-profit group comprised of senior citizens, entered into a 30-year agreement with the City of Modesto in which MSCI agreed to pay $100,000 towards the cost of expansion and remodeling of the Modesto Senior Citizens Center, located at 211 Bodem Street, and

WHEREAS, on August 14, 2007, by Resolution 2007-505, the City Council approved a resolution to update the terms of usage at the Modesto Senior Citizens Center, and

WHEREAS, prior to the inception of the new facility usage policy at the Modesto Senior Citizens Center, MSCI had expressed a desire to enter into an agreement with longer terms, and

WHEREAS, after a number of meetings with the MSCI President and other board members, MSCI offered to contribute $5,000 to the City of Modesto for kitchen upgrades, and

WHEREAS, the City is researching the possibility of upgrading the current residential refrigerator to a commercial grade refrigerator/freezer unit and additionally, the City hopes to add an ice-maker to the current kitchen facility, and

WHEREAS, MSCI, in exchange of their contribution to the City of Modesto, would receive a five-year agreement for the current $1.00 per hour rental rate at the Modesto Senior Citizens Center, until November 30, 2012, with an option to renew for another five years at that time, and

WHEREAS, the Safety and Communities Committee met on October 1, 2007, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Agreement with Modesto Senior Citizens Inc. (MSCI) to accept a $5,000 donation to provide improvements to the kitchen at the Modesto Senior Citizens Center, and to reaffirm facility usage rates at the Modesto Senior Citizens Center.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-650

A RESOLUTION AUTHORIZING THE SOLICITATION OF PROPOSALS FOR THE DESIGN AND INSTALLATION OF THE DIGESTER GAS TREATMENT PROJECT EQUIPMENT AT A COST OF $245,000, WITH A CONTINGENCY AMOUNT OF $36,750, FOR THE TOTAL AMOUNT NOT TO EXCEED $281,750.

WHEREAS, on September 26, 2006, by Resolution No. 2006-622, the City Council approved an agreement with California Energy Commission (CEC) to perform energy audits of the Sutter Avenue and Jennings Road Treatment Plant Facilities, and

WHEREAS, CEC contracted with Digital Energy to perform these energy audits and Digital Energy found that by installing a digester gas treatment system to feed an existing low emissions boiler burner the City would see a reduction in natural gas usage, and

WHEREAS, the Digester Gas Treatment project will replace the use of natural gas in the boiler operation with digester gas that is already produced at the Treatment Plant, and

WHEREAS, this project will require the installation of a system that will remove hydrogen sulfide and moisture from the digester gas, and require a new permit for boiler operation from the San Joaquin Valley Air Pollution Control District (SJVAPCD), and

WHEREAS, it is estimated that the utility bill savings from this project will be approximately $147,000 annually, and

WHEREAS, the estimated project cost for the Digester Gas Treatment project is $245,000, and

WHEREAS, PG&E is offering rebates through its PG&E performance contract rebates in the amount of $0.80 per therm for recovered thermal energy from flared gas, and

WHEREAS, approval from PG&E for this project would provide rebates in approximately $112,000, which will bring the project cost to $133,000, and

WHEREAS, funding for this project is available from Wastewater Reserves, and the expected payback from the rebates and energy savings is approximately one year, and

WHEREAS, the Council Economic Development Committee, at its October 8, 2007, meeting recommended approval of this item to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the solicitation of proposals for the design and installation of the Digester Gas Treatment Project equipment at a cost of $245,000, with a contingency amount of $36,750, for the total amount not to exceed $281,750.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-651

A RESOLUTION AUTHORIZING STAFF TO APPLY FOR PG&E REBATES IN THE AMOUNT OF $112,000 FOR THE DIGESTER GAS TREATMENT PROJECT.

WHEREAS, on September 26, 2006, by Resolution No. 2006-622, the City Council approved an agreement with California Energy Commission (CEC) to perform energy audits of the Sutter Avenue and Jennings Road Treatment Plant Facilities, and

WHEREAS, CEC contracted with Digital Energy to perform these energy audits and Digital Energy found that by installing digester gas treatment system to feed an existing low emissions boiler burner the City would see a reduction in natural gas usage, and

WHEREAS, it is estimated that the utility bill savings from this project will be approximately $147,000 annually, and

WHEREAS, the estimated project cost for the Digester Gas Treatment project is $245,000, and

WHEREAS, PG&E is offering rebates through its PG&E performance contract rebates in the amount of $0.80 per therm for recovered thermal energy from flared gas, and

WHEREAS, approval from PG&E for this project would provide rebates in approximately $112,000, which will bring the project cost to $133,000, and

WHEREAS, the Council Economic Development Committee, at its October 8, 2007, meeting recommended approval of this item to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to apply for PG&E Rebates in the amount of $112,000 for the Digester Gas Treatment Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-652

A RESOLUTION APPROVING THE TRANSFER OF $281,750 FROM WASTEWATER RESERVES TO CIP 6210-480-B463-6040 (DIGESTER GAS TREATMENT SYSTEM) TO FUND THIS PROJECT.

WHEREAS, on September 26, 2006, by Resolution No. 2006-622, the City Council approved an agreement with California Energy Commission (CEC) to perform energy audits of the Sutter Avenue and Jennings Road Treatment Plant Facilities, and

WHEREAS, CEC contracted with Digital Energy to perform these energy audits and Digital Energy found that by installing digester gas treatment system to feed an existing low emissions boiler burner the City would see a reduction in natural gas usage, and

WHEREAS, it is estimated that the utility bill savings from this project will be approximately $147,000 annually, and

WHEREAS, the estimated project cost for the Digester Gas Treatment project is $245,000, and

WHEREAS, the Council Economic Development Committee, at its October 8, 2007, meeting recommended approval of this item to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes a transfer of $281,750 from Wastewater Reserves to CIP Account #6210-480-B463 (Digester Gas Treatment System) to fund this project.

BE IT FURTHER RESOLVED, that the Finance Department is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-653

A RESOLUTION APPROVING AN AMENDMENT TO THE LEASE AGREEMENT WITH LOUISE BOER, JR., AN INDIVIDUAL, FOR THE LEASE OF CITY-OWNED PROPERTY LOCATED AT THE NORTHWEST CORNER OF FRAZINE ROAD AND LA COSTE LANE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE LEASE AGREEMENT.

WHEREAS, the Frazine Road property is an agricultural land parcel of approximately twelve (12) acres, consisting of almond and peach orchards, and

WHEREAS, the property was acquired as a part of a larger purchase of acreage to provide land for the Regional Water Treatment Plant storage tanks known as Terminal Reservoir, and

WHEREAS, the City has leased the property to Louis Boer, Jr. for the last year, and

WHEREAS, the terms of the original lease include an annual payment of $1,500 to the Water Enterprise Fund, payment of property taxes ($1,462 for FY 06/07), and an irrigation tax of approximately $300, and

WHEREAS, the tenant is responsible for maintaining the property and trees in accordance with accepted agricultural practices, and

WHEREAS, this Amendment to the Lease Agreement removes the profit share portion of the lease and lengthens the contract to five years, and

WHEREAS, the cost to the City to maintain this property would be much more than leasing it out to a private party to maintain, and

WHEREAS, the Finance Committee, at its September 24, 2007 meeting, recommended approval of the amendment to the lease agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and amendment to the original lease agreement with Louis Boer, Jr., an individual, for the lease of City-owned property located at the northwest corner of Frazine Road and La Coste Lane.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Amendment to the Lease Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-654

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PROCUREMENT OF DIGITAL VIDEO RECORDING (DVR) SURVEILLANCE SYSTEMS FOR TRANSIT DIVISION BUSES FROM SAFETY VISIONS, INC., LITTLE ELM, TX, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR A TOTAL ESTIMATED COST OF $138,524.

WHEREAS, City Transit buses currently have video surveillance systems to protect the safety of the passengers and drivers, and

WHEREAS, video is used to investigate incidences and as a protective measure against bad behavior and vandalism, and

WHEREAS, the 1998 buses have the original VCR units that were installed during manufacturing of the buses, and

WHEREAS, these units are a VCR-type recorder, an older technology that has proven to be susceptible to foreign contaminates such as dust, and maintenance costs have increased as the recorders have aged, and

WHEREAS, new digital video recording (DVR) technology is now available and has dramatically improved the reliability of the video systems, and

WHEREAS, newer buses are equipped with this digital technology and have shown a marked decrease in breakdowns and lost or unusable data, and

WHEREAS, digital technology provides much higher quality data when an incident occurs that requires review of the video, and

WHEREAS, the purchase of these DVR surveillance systems as a sole source purchase will standardize the video systems in the Transit fleet by providing lower maintenance costs and better reliability, and

WHEREAS, it will also minimize the costs associated with purchasing peripheral equipment and software needed to maintain download, manage the recorded data, and training of staff to operate multiple types of systems, and

WHEREAS, funds are budgeted in Accounts 6510-165-1678C-5998 ($124,000) and 6510-165-1678C-5941 ($14,524) for the purchase of Digital Video Recording (DVR) surveillance systems,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to conduct a sole source procurement of Digital Video Recording (DVR) surveillance systems for the Transit Division buses from Safety Vision, Inc., Little Elm, TX.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchasing agreement for a total estimated cost of $138,524.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-655

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE FURNISHING OF WELL AND TANK SITE PAINTING SERVICES FOR THE PUBLIC WORKS DEPARTMENT – WATER DIVISION, FOR A TWO (2)YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $35,000.

WHEREAS, the City currently is operating 121 well sites and 10 storage tanks, and

WHEREAS, in an ongoing effort to maintain the integrity of these facilities it is necessary to paint them periodically, and

WHEREAS, the painting of 10-15 sites per year will insure all facilities and equipment are protected from the environment, and

WHEREAS, funds are budgeted in the Water Fund 6100-480-5013-0223 in the amount of $35,000 to fund the well and tank site painting services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to solicit formal request for bids for the furnishing of well and tank site painting services for the Public Works Department – Water Division, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $35,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST:

Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-656

A RESOLUTION APPROVING THE JOINT POWERS AGREEMENT BETWEEN THE CITY OF MODESTO AND STANISLAUS COUNTY FOR THE PLANNING AND CONSTRUCTION OF THE PROJECT TITLED "PELANDALE AVENUE AT SISK ROAD/STATE ROUTE 99 IMPROVEMENTS" AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, continued growth in northern Modesto and Stanislaus County have increased traffic volume at the Pelandale/Highway 99 interchange, and

WHEREAS, the increased traffic has reduced the level of service of the existing interchange including the adjacent intersections and ramps, and

WHEREAS, the interchange serves both City and County residents, and

WHEREAS, the interchange and connecting streets lie on the border between the City and the County with the majority located within the Caltrans right-of-way, and

WHEREAS, the City and County desire to reduce congestion and delays at the intersections by widening the highways and ramps, and

WHEREAS, the proposed project to be completed under this Joint Powers Agreement will consist of widening of portions of Pelandale Avenue, Sisk Road, northbound State Route 99 ramp, and modifying signals, signs and striping, and

WHEREAS, the project will be funded jointly from CEQA Mitigation Fees collected by the County and Capital Facilities Fees collected and administered by the City, and

WHEREAS, the City is actively working with STANCOG and Caltrans to plan the ultimate replacement of the interchange in the near future (10 years), and

WHEREAS, the City has or will take the lead in completing the design, approval, bidding, and inspection for the proposed improvements, and

WHEREAS, an agreement is needed between Stanislaus County and the City of Modesto for the planning and implementation of the proposed "Pelandale Avenue at Sisk to State Route 99 Improvements" project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Joint Powers Agreement between the City of Modesto and Stanislaus County for the planning and construction of the Project titled "Pelandale Avenue at Sisk to State Route 99 Improvements."

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-657

A RESOLUTION APPROVING A RENEWAL AND FOUR-YEAR EXTENSION OF THE OCTOBER 2001, MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE STANISLAUS AND TUOLUMNE RIVERS' GROUNDWATER BASIN ASSOCIATION FOR PURPOSES OF CONTINUED COORDINATION RELATED TO GROUNDWATER MANAGEMENT ACTIVITIES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A LETTER OF EXTENSION

WHEREAS, in 1992, the California Legislature passed Assembly Bill (AB) 3030, which was designed to provide local public agencies increased management authority over their groundwater resources, and

WHEREAS, in September 2002, new legislation (Senate Bill 1938) expanded AB 3030 to encourage local agencies to work cooperatively together in the management of groundwater resources, and

WHEREAS, the City overlies two groundwater basins, the Modesto Groundwater Sub-basin, overseen by the Stanislaus and Tuolumne Rivers' Groundwater Basin Association (STRGBA), and the Turlock Groundwater Sub-basin, overseen by the Turlock Groundwater Basin Association, and

WHEREAS, on October 9, 2001, Council adopted Resolution No. 2001-515, which approved a Memorandum of Understanding (MOU) between the City and the STRGBA to coordinate groundwater management activities within the Modesto Groundwater Sub-basin, and

WHEREAS, City staff has actively participated in ongoing groundwater management efforts, and on June 29, 2005, Council adopted Resolution No. 2005-340, which approved an Integrated Regional Groundwater Management Plan (IRGMP) developed by the STRGBA, and

WHEREAS, with an objective of developing a safe and sustaining water supply, the IRGMP provides a framework for overseeing and coordinating groundwater management activities within the Modesto Groundwater sub-basin, and

WHEREAS, the IRGMP identifies various Basin Management Objectives to be studied and possibly be implemented, such as, improving supply reliability, identifying potential recharge areas, optimizing well field operations, and developing conjunctive use strategies to improve water quality, and

WHEREAS, one particular study currently being conducted by the United States Geologic Survey (USGS) is to develop a groundwater flow model of the sub-basin (supported by funding from the USGS and the STRGBA), and

WHEREAS, member agencies of the STRGBA have mutually agreed to recommend extending the terms of the MOU to their respective Council or Board for an additional four years, and

WHEREAS, the terms of the MOU with the STRGBA expired on December 31, 2006, and it is desirable that the MOU be renewed and extended by four years to December 31, 2010 as this action supports the City Council goal of a water system that has sufficient capacity for all current and future economic growth, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a renewal and four-year extension of the October 2001, Memorandum of Understanding between the City and the Stanislaus and Tuolumne Rivers' Groundwater Basin Association for purposes of continued coordination related to groundwater management activities.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a Letter of Extension.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-658

A RESOLUTION FINDING THAT THE FLOYD AVENUE WIDENING PROJECT BETWEEN ROSELLE AVENUE AND FINE AVENUE IS WITHIN THE SCOPE OF THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR, AS AMENDED BY THE VILLAGE ONE SUPPLEMENTAL EIR AND THE ADDENDUM TO THE EIR (SCH NO. 90020181).

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/PW No. 2006-30, that concludes that the project entitled "Floyd Avenue Widening Project Between Roselle Avenue and Fine Avenue," is within the scope of the previously certified Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR and the Addendum to the EIR (SCH No. 90020181), and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines:

1. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the Village One Program EIR, as amended by the 1994 Supplemental EIR and the 2003 Addendum to the EIR ("Program EIR") and no new environmental document or findings are required by CEQA.
2. There are no substantial changes proposed in the Project which result in new significant environmental effects or a substantial

increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR are required.

3. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and therefore, no major revisions to the Program EIR, are required.
4. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:
    a. one or more significant effects which is not discussed in the Program EIR; or,
    b. significant effects which were previously examined will be substantially more severe than previously shown; or,
    c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,
    d. mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the

environment, but the Project proponents decline to adopt the mitigation measure or alternative.

The City Council has received and considered the Written Checklist Environmental Assessment EA/PW No. 2006-30, which provides the substantial evidence to support findings 1-4 above.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-659

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE PROJECT ENTITLED "KING-KENNEDY MEMORIAL CENTER KITCHEN AND AUDITORIUM RENOVATION" FROM 10 PERCENT ($59,800.80) TO 15 PERCENT ($89,701.20) OF THE ORIGINAL CONTRACT PRICE WITH JHK CONSTRUCTION

WHEREAS, on April 24, 2007, by Resolution No. 2007-242, the City Council awarded a $598,008.00 contract to JHK Construction to construct the "King-Kennedy Memorial Center Kitchen and Auditorium Renovation" project, and

WHEREAS, the contractor started work on June 4, 2007, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the requested renovations, and

WHEREAS, the cost of the extra work was estimated to be as high as $89,701.20, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $59,800.80,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the project entitled "King-Kennedy Memorial Center Kitchen and Auditorium Renovation" from 10 percent ($59,800.80) to 15 percent ($89,701.20) of the original contract price with JHK Construction.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-660

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE PRESIDENTIAL PRIMARY ELECTION A MEASURE SEEKING A VOTE ON THE QUESTION OF WHETHER THE CITY OF MODESTO SHOULD CHANGE ITS SYSTEM OF ELECTING CITY COUNCILMEMBERS TO A "BY DISTRICT" SYSTEM.

BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Pursuant to Article 11 of Section 3 of the California Constitution and Section 9255(a)(2) of the California Elections Code, and California Government Code Section 34458, the Council of the City of Modesto proposes to and does hereby, on its own motion, submit to the qualified electors of the City of Modesto, at the Presidential Primary Election to be held on February 5, 2008, a measure seeking a vote on the question of whether the City of Modesto should change its system of electing City Councilmembers to a "By District" system.

SECTION 2. That a measure is to appear on the ballot as follows:

Should Modesto change its system of electing City Councilmembers to a "By District" system as follows:	YES	
Six Districts where candidates must live in the District they wish to represent and the voters who live in the District vote on who will represent that District?	NO	

SECTION 3. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Stanislaus.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-661

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE MEASURE SEEKING A VOTE ON THE QUESTION OF WHETHER THE CITY OF MODESTO SHOULD CHANGE ITS SYSTEM OF ELECTING CITY COUNCILMEMBERS TO A "BY DISTRICT" SYSTEM TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE.

WHEREAS, the Modesto City Council has directed the City Clerk to submit to the voters at the Presidential Primary Election to be held on February 5, 2008, a measure seeking a vote on the question of whether the City of Modesto should change its system of electing City Councilmembers to a "By District" system.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk of the City of Modesto is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-662

A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE MEASURE SEEKING A VOTE ON THE QUESTION OF WHETHER THE CITY OF MODESTO SHOULD CHANGE ITS SYSTEM OF ELECTING CITY COUNCILMEMBERS "BY DISTRICT" SYSTEM.

WHEREAS, the Modesto City Council has directed the City Clerk to submit to the voters at the Presidential Primary Election to be held on February 5, 2008, a measure seeking a vote on the question of whether the City of Modesto should change its system of electing City Councilmembers to a "By District" system.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no arguments may be filed with the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Hawn who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Jean Morris
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-663

A RESOLUTION APPROVING THE EXPENDITURE OF THE CITY OF MODESTO'S 2007/2008 ALLOCATION IN THE AMOUNT OF $402,222 FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF) FOR FRONTLINE MUNICIPAL POLICE SERVICES AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the legislation has continued to be funded each subsequent year at $100 million, statewide, from sales and use taxes, for exclusive funding of frontline municipal police services, in accordance with written requests submitted by the Chief of Police of a city to his or her governing body, convened in public hearing, and

WHEREAS, the purpose of the law is to provide for additional resources to be applied at the local level for purpose of ensuring public safety, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto for fiscal year 2007/2008 is $402,222, and

WHEREAS, the program requires a public hearing to consider and determine each request submitted by local governmental Chiefs of Police or Sheriffs regarding spending plans, and

WHEREAS, these funds must be held in an interest-bearing Supplemental Law Enforcement Services Fund and must not be used to supplant existing budget funds, and

WHEREAS, the Modesto Police Department recommends using the SLESF monies to pay personnel and equipment costs for frontline police services for:

1. Pay the first annual loan repayment to the Fleet Fund for the 81 Mobile Digital Computers (MDCs) approved by City Council on December 5, 2006 by Resolution No. 2006-749 ($117,201), and
2. Utilize the remainder of the SLESF funds for overtime costs ($285,021) See **Attachment A.** This action will adjust the budget to appropriate these funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that after holdinga public hearing, it hereby accepts the Chief of Police's spending plan for the 2007/2008 State Supplemental Law Enforcement Services Fund allocation of $402,222 for frontline municipal police services.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SAWood
SUSANA ALCALA WOOD, City Attorney

2007/08 State Law Enforcement Supplemental Funding Budget

07/08 Allocation - $402,222

Repayment of loan to Fleet fund for 81 Mobile Digital Computers (MDCs)	$ 108,519.75
Overtime	$ 293,702.25
TOTAL	**$ 402,222.00**

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-664

A RESOLUTION AMENDING THE 2007/2008 FISCAL YEAR OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES FOR THE CITY OF MODESTO'S ALLOCATION FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF)

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the legislation has continued to be funded each subsequent year at $100 million, statewide, from sales and use taxes, for exclusive funding of frontline municipal police services, in accordance with written requests submitted by the Chief of Police of a city to his or her governing body, convened in public hearing, and

WHEREAS, the purpose of the law is to provide for additional resources to be applied at the local level for the purpose of ensuring public safety, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto for fiscal year 2007/2008 is $402,222, and

WHEREAS, the Modesto Police Department plans to budget these funds for frontline municipal police services, and

WHEREAS, the adopted 2007/2008 Police 07-08 SLESF allocation in the amount of $402,222 will be applied to account number 0400-190-2923-5008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby amends the Fiscal Year 2007/2008 operating budget to appropriate

revenues and expenditures to 0400-190-2923-5008 for frontline municipal police services.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-665

A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE FLOYD AVENUE WIDENING PROJECT BETWEEN ROSELLE AVENUE AND FINE AVENUE.

Wade Ramey and Nerie Ramey, Property Owners

Property Address: Real property and improvements to real property (in fee) and temporary construction easement located at 3725 Floyd Avenue, Modesto, CA

Assessor's Parcel No.: 085-018-062 (portion)

WHEREAS, in accordance with the Circulation Transportation element of the City of Modesto Urban General Plan, Floyd Avenue between Roselle Avenue and Fine Avenue is designated as a minor arterial street. Floyd Avenue between Roselle Avenue and Fine Avenue currently is a two lane roadway and will be expanded to become a minor arterial consisting of four traffic lanes, and curb, gutter, sidewalks, median and landscaping.

WHEREAS, on October 3, 2006, by Resolution 2006-637, the City Council approved CIP Project Number X512 "Floyd Avenue between Roselle Avenue and Fine Avenue" as part of the City of Modesto's CIP Program, and

WHEREAS, the Project, when completed will improve traffic circulation and reduce traffic congestion in northeast Modesto, and

WHEREAS, the City of Modesto is vested with the powers of eminent domain to acquire the property interests for the Project by virtue of Article 1, Section 19 of the Constitution of the State of California, Government Code Sections, 37350.5 and 40404, Sections 1240.010, 1240.050, 1240.110, 1240.120, 1240.140, 1240.150 and 1240.350 of the Code of Civil Procedure of the State of California, and Section 1810 of the Streets and Highway Code of the State of

California, and

WHEREAS, it is desirable and necessary for the City of Modesto to acquire certain real property interests on Assessor's Parcel Number 085-018-062, including fee title together will all improvements situated thereon and together with all rights appurtenant thereto, as described in Exhibit "A" and depicted in Exhibit "B" and a temporary construction easement as described in **Exhibit "A-1"** and depicted in **Exhibit "B-1",** which exhibits are attached hereto and made a part hereof by this reference and hereinafter referenced as the "Subject Project" in order to construct, widen, and/or improve Floyd Avenue between Roselle Avenue and Fine Avenue in the City of Modesto and the County of Stanislaus ("Project") and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Stanislaus County equalized assessment roll all whom have been given a reasonable opportunity to appear and be heard before the City of Modesto on the following matters:

(a) Whether the public interest and necessity require the Project;

(b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

(c) Whether the property sought to be acquired is necessary for the Project;

(d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record, and

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, on or about May 23, 2007, the City of Modesto made a written

offer to Wade and Nerie Ramey to acquire the subject property for just compensation, and

WHEREAS, the City of Modesto has satisfied the provisions and complied with all requirements of the California Environmental Quality Action ("CEQA") for the Project, and

WHEREAS, the hearing was held on November 7, 2007, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, CA at which time evidence both oral and documentary was received and considered,

NOW, THEREFORE, IT IS FOUND, DETERMINED, ORDERED AND RESOLVED as follows:

1. The public interest and necessity require the Project for the acquisition of the fee simple and the temporary construction easement in and through the above-identified parcel of land.

2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.

3. The taking of the fee simple title in and to the real property and other interests including improvements to real property as more particularly described in Exhibit A and depicted in Exhibit B is necessary for the Project.

4. The taking of the temporary construction easement in and to the real property as more particularly described in Exhibit A-1 and depicted in Exhibit B-1 is necessary for the Project.

5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property.

6. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property interests described herein have been complied with by the City of Modesto.

7. The Office of the City Attorney of the City of Modesto or counsel retained by it, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such

proceedings in the proper court as are necessary for such acquisition and to take proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation based on an appraisal.

8. The Office of the City Attorney of the City of Modesto or counsel retained by it, is hereby authorized and empowered to deposit with the State Treasury Condemnation Fund the probable amount of compensation, based on appraisal, and apply to the Court for an order of prejudgment possession of the subject property interest for said public uses and purposes.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

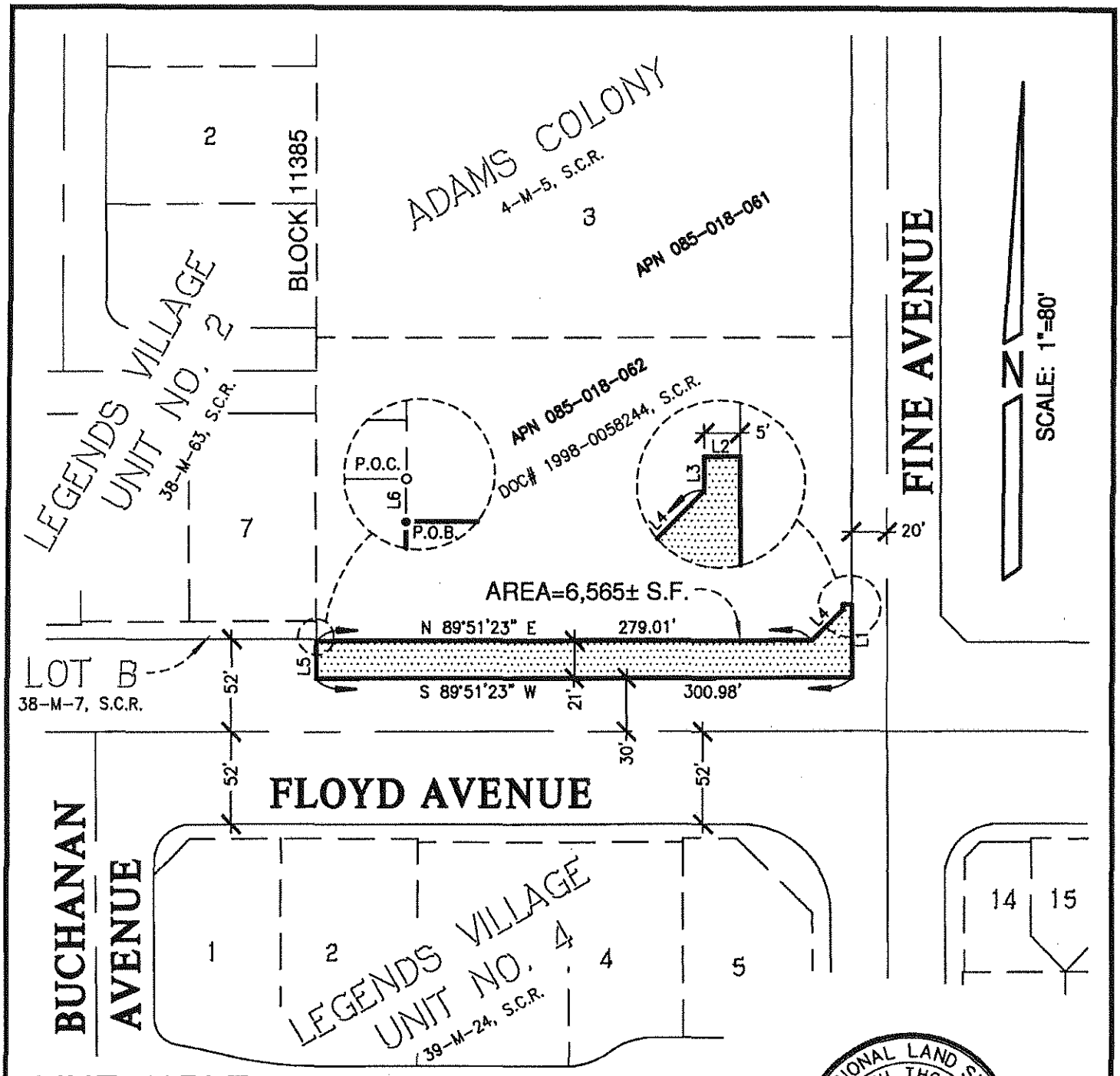
Legal Description

EXHIBIT A

All that portion of Lot 3 as shown on the "Map of Adams Colony" filed for record on October 21, 1908 in Volume 4 of Maps at Page 5, Stanislaus County Records and as described in that Grand Deed filed for record on June 30, 1998 as Document Number 98-0058244, Stanislaus County Records situate in the east half of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, being more particularly described as follows:

Commencing at the southeast corner of Lot B as shown on the map of "Legends Village Unit No. 1" filed for record May 20, 1998 in Book 38 of Maps at Page 7, Stanislaus County Records; thence along the southerly prolongation of the east line of said Lot B South 00°19'45" East 1.00 feet to the **Point of Beginning**; thence North 89°51'23" East 279.01 feet parallel with and 21.00 feet northerly of the north line of the 30.00 foot half width of Floyd Avenue; thence North 44°45'49" East 23.96 feet; thence North 00°19'45" West 3.11 feet parallel with and 5.00 feet westerly of the west line of the 20.00 foot half width of Fine Avenue; thence North 89°40'15" East 5.00 feet to the west line of said Fine Avenue; thence along said west line South 00°19'45" East 41.10 feet to the intersection of the north line of said Floyd Avenue; thence along said north line South 89°51'23" West 300.98 feet to the intersection of said southerly prolongation of the east line of Lot B; thence along said southerly prolongation North 00°19'45" West 21.00 feet to the Point of Beginning all as shown on the attached "Exhibit B" and made a part hereof, and containing 6,565 square feet, more or less.

END DESCRIPTION.



LINE TABLE

LINE	BEARING	LENGTH
L1	S 00°19'45" E	41.10'
L2	N 89°40'15" E	5.00'
L3	N 00°19'45" W	3.11'
L4	N 44°45'49" E	23.96'
L5	N 00°19'45" W	21.00'
L6	S 00°19'45" E	1.00'

SCALE: 1"= 80'	
DRAWN BY: Chris C.	
FILE: 13071leg_row.dwg	
DATE: December 20, 2006	

O'DELL ENGINEERING
1165 Scenic Drive, Suite A Modesto, CA 95350
Ph 209.571.1765 Fax 209.571.2468

EXHIBIT B

EXHIBIT B

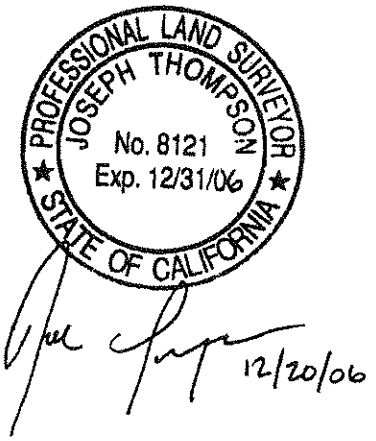
Legal Description

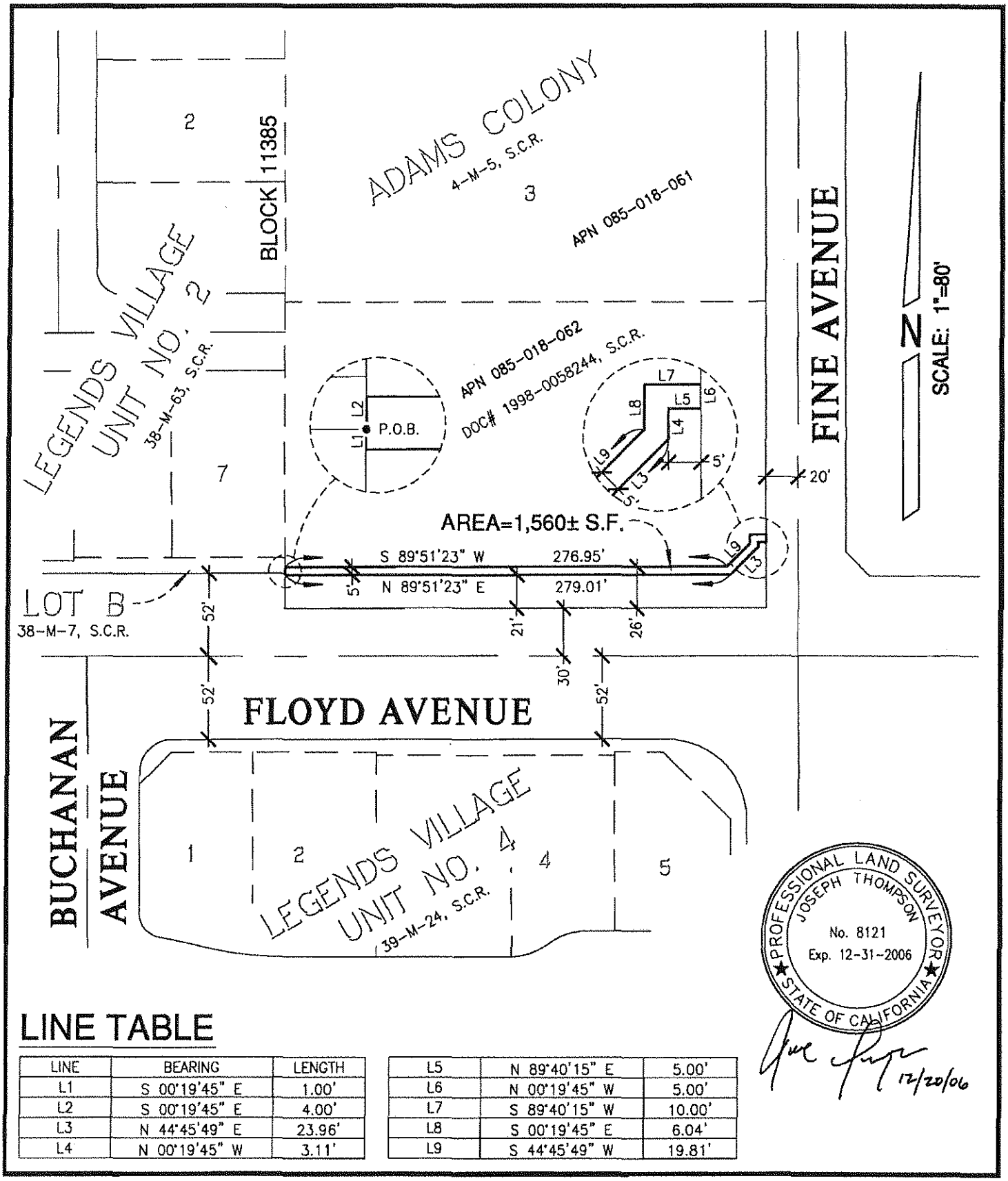
EXHIBIT A

A strip of land 5.00 feet in width being a portion of Lot 3 as shown on the "Map of Adams Colony" filed for record on October 21, 1908 in Volume 4 of Maps at Page 5, Stanislaus County Records and as described in that Grand Deed filed for record on June 30, 1998 as Document Number 98-0058244, Stanislaus County Records situate in the east half of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, said strip being more particularly described as follows:

Beginning at the southeast corner of Lot B as shown on the map of "Legends Village Unit No. 1" filed for record May 20, 1998 in Book 38 of Maps at Page 7, Stanislaus County Records; thence along the southerly prolongation of the east line of said Lot B South 00°19'45" East 1.00 feet; thence North 89°51'23" East 279.01 feet parallel with and 21.00 feet northerly of the north line of the 30.00 foot half width of Floyd Avenue; thence North 44°45'49" East 23.96 feet; thence North 00°19'45" West 3.11 feet parallel with and 5.00 feet westerly of the west line of the 20.00 foot half width of Fine Avenue; thence North 89°40'15" East 5.00 feet to the west line of said Fine Avenue; thence along said west line North 00°19'45" West 5.00 feet; thence South 89°40'15" West 10.00 feet; thence South 00°19'45" West 6.04 feet; thence South 44°45'49" West 19.81 feet; thence South 89°51'23" West 276.95 feet parallel with and 26.00 feet northerly of the north line of said Floyd Avenue to the east line of said Lot B; thence along said east line South 00°19'45" East 4.00 feet to the Point of Beginning all as shown on the attached "Exhibit B" and made a part hereof, and containing 1,560 square feet, more or less.

END DESCRIPTION.





PROFESSIONAL LAND SURVEYOR
JOSEPH THOMPSON
No. 8121
Exp. 12-31-2006
STATE OF CALIFORNIA

12/20/06

LINE TABLE

LINE	BEARING	LENGTH
L1	S 00°19'45" E	1.00'
L2	S 00°19'45" E	4.00'
L3	N 44°45'49" E	23.96'
L4	N 00°19'45" W	3.11'

L5	N 89°40'15" E	5.00'
L6	N 00°19'45" W	5.00'
L7	S 89°40'15" W	10.00'
L8	S 00°19'45" E	6.04'
L9	S 44°45'49" W	19.81'

SCALE: 1"=80'	
DRAWN BY: Chris C.	
FILE: 13071leg_construction.dwg	
DATE: December 20, 2006	

O'DELL ENGINEERING
1165 Scenic Drive, Suite A Modesto, CA 95350
Ph 209.571.1765 Fax 209.571.2466

EXHIBIT B

EXHIBIT B-1

Print

`MODESTO CITY COUNCIL
RESOLUTION NO. 2007-666

A RESOLUTION APPROVING THE 2008 CITY COUNCIL MEETING CALENDAR

BE IT HEREBY RESOLVED by the Council of the City of Modesto that 2008 City Council Meeting, attached hereto as "**Exhibit A**", is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

City Council Calendar
2008

January 2008

2nd	Council Meeting (special)*
8th	Council Meeting (regular)
15th	NO MEETING
22nd	Council Meeting (regular)
29th	NO MEETING – 5th Tuesday

February 2008

5th	Council Meeting (regular)
12th	Council Meeting (regular)
19th	NO MEETING
26th	Council Meeting (regular)

March 2008

4th	Council Meeting (regular)
11th	Council Meeting (regular)
18th	NO MEETING
25th	CANCELLED**

April 2008

1st	Council Meeting (regular)
8th	Council Meeting (regular)
15th	NO MEETING
22nd	Council Meeting (regular)
29th	NO MEETING – 5th Tuesday

May 2008

6th	Council Meeting (regular)
13th	Council Meeting (regular)
20th	NO MEETING
27th	Council Meeting (regular)

June 2008

3rd	Council Meeting (regular)
10th	Council Meeting (regular)
17th	NO MEETING
24th	Council Meeting (regular)

July 2008

1st	Council Meeting (regular)
8th	Council Meeting (regular)
15th	NO MEETING
22nd	NO MEETING
29th	NO MEETING – 5th Tuesday

August 2008

6th	Council Meeting (special)***
12th	Council Meeting (regular)
19th	NO MEETING
26th	NO MEETING

September 2008

2nd	Council Meeting (regular)
9th	Council Meeting (regular)
16th	NO MEETING
23rd	Council Meeting (regular)
30th	NO MEETING – 5th Tuesday

October 2008

7th	Council Meeting (regular)
14th	Council Meeting (regular)
21st	NO MEETING
28th	Council Meeting (regular)

November 2008

5th	Council Meeting (special)****
12th	Council Meeting (special)*****
18th	NO MEETING
25th	Council Meeting (regular)

December 2008

2nd	Council Meeting (regular)
9th	Council Meeting (regular)
16th	CANCELLED per MMC 2-1.01
23rd	CANCELLED per MMC 2-1.01
30th	CANCELLED per MMC 2-1.01

*January 2nd Wednesday Meeting due to holiday on January 1st
**March 25th due to Spring Break
***August 6th Wednesday Meeting due to National Night Out on August 5th
****November 5th Wednesday Meeting due to Election Day on November 4th
*****November 12th Wednesday Meeting due to Veterans Day on November 11th

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-667

A RESOLUTION RESCINDING CITY COUNCIL RESOLUTION NO. 2007-530, APPROVING THE FILING OF AN APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX APPROXIMATELY 3.2 ACRES OF PROPERTY LOCATED NORTH OF KANSAS AVENUE AND EAST OF LONE PALM AVENUE TO THE CITY OF MODESTO AND SEWER DISTRICT NO. 1 AND TO DETACH SAID PROPERTY FROM THE WOODLAND FIRE PROTECTION DISTRICT (OWNER INITIATED – UNINHABITED)

WHEREAS, Government Code Section 56650 provides that proceedings to initiate a change of organization to annex additional territory to a City may be initiated by Resolution of Application or Petition, and

WHEREAS, on September 4, 2007, at 5:30 p.m., in the Tenth Street Place Chambers at 1010 Tenth Street, Modesto, California, the City Council held a duly noticed public hearing to consider the proposed Resolution of Application for annexation of the Property; and

WHEREAS, on September 4, 2007, the City Council adopted Resolution No. 2007-530 approving the filing of an application to the Stanislaus Local Agency Formation Commission to annex approximately 3.2 acres of property located north of Kansas Avenue and east of Lone Palm Avenue to the City of Modesto and Sewer District No. 1 and to detach said property from the Woodland Fire Protection District; and

WHEREAS, staff inadvertently attached incorrect **Exhibits A and B** to Resolution No. 2007-530; and

WHEREAS, staff is recommending the City Council rescind Resolution No. 2007-530 and adopt a new resolution approving the filing of an application to the Stanislaus Local Agency Formation Commission to annex approximately 3.55 acres of

property located north of Kansas Avenue and east of Lone Palm Avenue to the City of Modesto and Sewer District No. 1 and to detach said property from the Woodland Fire Protection District.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby rescinds:

1. Resolution No. 2007-530 entitled, "A Resolution Approving the Filing of an Application to the Stanislaus Local Agency Formation Commission to Annex Approximately 3.2 Acres of Property Located North of Kansas Avenue and East of Lone Palm Avenue to the City of Modesto and Sewer District No. 1 and to Detach Said Property from the Woodland Fire Protection District (Owner Initiated – Uninhabited)" is hereby rescinded.

The foregoing resolution was introduced at the regular meeting of the City Council held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion was seconded by Councilmember O'Bryant, and carried by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANNA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-668

A RESOLUTION APPROVING THE FILING OF AN APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX APPROXIMATELY 3.55 ACRES OF PROPERTY LOCATED NORTH OF KANSAS AVENUE AND EAST OF LONE PALM AVENUE TO THE CITY OF MODESTO AND SEWER DISTRICT NO. 1 AND TO DETACH SAID PROPERTY FROM THE WOODLAND FIRE PROTECTION DISTRICT (OWNER INITIATED – UNINHABITED)

WHEREAS, 4701 Stoddard, LLC, (applicant) represents Greg and Christine Kyler, Jose Zamora, and Jack McCoy, the owners of approximately 3.55 acres of real property, located north of Kansas Avenue and east of Lone Palm Avenue ("Property"), and

WHEREAS, the City has received a written request from the applicant to initiate annexation of the Property to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, Government Code Section 56650 provides that proceedings to initiate a change of organization to annex additional territory to a City may be initiated by Resolution of Application or Petition, and

WHEREAS, the Property proposed to be annexed is uninhabited, and a description of the boundaries of the subject Property is set forth in **Exhibits "A" and "B"**, attached hereto and by this reference incorporated herein, and

WHEREAS, the subject territory proposed to be annexed is within Stanislaus County, contiguous to the existing City limits and within the current Sphere of Influence

of the City of Modesto, as adopted by Stanislaus Local Agency Formation Commission, Resolution No. 2004-26, on September 22, 2004, and

WHEREAS, before an annexation application may be heard by LAFCO, there must be an agreement with the County providing for the sharing of property taxes following an annexation, and

WHEREAS, the proposed annexation area is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996, and

WHEREAS, the proposed Property is not subject to a Williamson Act contract, pursuant to Government Code Section 51200, et seq, and

WHEREAS, it is desired to provide that the proposed reorganization be subject to the following terms and conditions:

(a) The annexation of said property, as set forth on Exhibits "A" and "B" attached hereto, to the City of Modesto.
(b) The annexation of said property, as set forth on Exhibits "A" and "B" attached hereto, to the Modesto Sewer District No. 1.
(c) The detachment of said property from the Woodland Fire Protection District, and

WHEREAS, the reasons for this proposed reorganization to the City of Modesto are as follows:

(a) Staff has received a written request signed by the property owners to annex their properties to the City of Modesto.
(b) The proposed annexation is within the existing Sphere of Influence and is consistent with the Urban Area General Plan and can be most efficiently served by City services.
(c) The proposed annexation will result in planned, orderly and efficient development of the area, and provision of services, and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in Exhibit "C", attached hereto and by this reference incorporated herein, and

WHEREAS, an Initial Study (Environmental Assessment No. EA/C&ED 2006-68) was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR, and

WHEREAS, the Planning Commission held a duly noticed public hearing to consider the proposed application for annexation on April 16, 2007, at 7:00 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California and recommended adoption of a Resolution of Application to annex the property, and

WHEREAS, on September 4, 2007, at 5:30 p.m., in the Tenth Street Place Chambers at 1010 Tenth Street, Modesto, California, the City Council held a duly noticed public hearing to consider the proposed Resolution of Application for annexation of the Property.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Modesto hereby finds and determines as follows:

1. That the proposed annexation and this Resolution of Application are consistent with the Modesto Urban Area General Plan, because they are consistent with General Plan Urban Growth Policy II.C.1.b., which states, "Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services," and because the development resulting from the proposed annexation is consistent with the General Plan.

2. The type of project under consideration is described in Chapter II of the MEIR and is within the scope of the MEIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Baseline Development Area.

3. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or have otherwise been made conditions of approval of the project.

4. That the proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.

5. That no new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2006-68, provides the substantial evidence to support findings 2-5 above.

7. The Property proposed to be annexed to the City of Modesto is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B," attached hereto and by this reference incorporated herein.

8. The Property is located within Stanislaus County, and is within the City's existing Sphere of Influence, is contiguous to the existing City limits and can be most efficiently served with City services.

9. The proposed annexation will result in planned, orderly, and efficient development of the area, and the most efficient provision of services.

10. An agreement for the sharing of property taxes for the Property was approved by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996.

11. The Property is not subject to a Williamson Act Contract pursuant to Government Code Section 51200, et seq.

12. The proposed annexation is within the scope of the Urban Area General Plan MEIR (SCH No. 1999082041) and has been adequately analyzed in the MEIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts this Resolution of Application to annex the Property to the City of Modesto and Modesto Sewer District No. 1 and to detach the Property from the Industrial Fire Protection District.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that:

1. All owners of land within the affected Property have given their written consent to the reorganization and therefore, pursuant to California Government Code Section 56663 (c)(1), the City Council consent to waiver of conducting authority proceedings.

2. Pursuant to Government Code Section 56653, the City Council shall submit the plan for providing services as set forth in Exhibit "C," attached hereto and by this reference incorporated herein.

The foregoing resolution was introduced at a regular meeting of the City Council held on the 13th day of November, 2007, by Dunbar, who moved its adoption, which motion was seconded by O'Bryant, and carried by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANNA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-669

A RESOLUTION AUTHORIZING THE CESSATION OF SPECIAL TAXES FOR APN 082-025-002 (FORMERLY A PORTION OF APN 082-025-009) FROM CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1997-1 AND DIRECTING THE CITY CLERK TO RECORD A NOTICE OF CESSATION OF SPECIAL TAX

WHEREAS, on June 24, 1997, the City Council adopted Resolution No. 97-355, establishing the City's Community Facilities District No. 1997-1 (North Beyer Park) ("District #1") and authorizing the levy of special taxes within District #1 pursuant to Chapter 2.5 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"), which Resolution has been amended from time to time, and

WHEREAS, on August 5, 1997, the City Council adopted Ordinance No. 3047-C.S., levying the special taxes within District #1, which Ordinance has been amended from time to time, and

WHEREAS, following the formation of District #1, the City Council has ordered annexations to District #1; and

WHEREAS, certain parcels have been annexed to District #1, and

WHEREAS, on June 12, 2007, the City Council adopted Resolution No. 2007-356, establishing the City's Community Facilities District No. 2007-1 (North Beyer Park #2) ("District #2) and authorizing the levy of special taxes within District #2 pursuant to the Act, and

WHEREAS, on June 12, 2007, the City Council adopted Ordinance No. 3445-C.S., effective July 26, 2007, levying the special taxes within District #2; and

WHEREAS, pursuant to Government Code Section 53330.5, the City Council may determine that a special tax shall cease to be levied when it is no longer needed to pay the costs and incidental expenses of services or of the construction of facilities authorized by the Act, and

WHEREAS, the special taxes to be levied on parcels within District #2 incorporate and include the costs and incidental expenses of services and the construction of facilities that were previously authorized in the special taxes to be levied on parcels within District #1, and

WHEREAS, the proceedings contemplated, and it is in the public interest, that for APN 082-025-002 (formerly a portion of APN 082-005-009) (the "Parcel") which was annexed to District #1 and subsequently annexed to District #2, the special tax obligation authorized to be levied pursuant to Resolution No. 97-355, as amended, and Ordinance No. 3047-C.S., as amended, would no longer be needed, and would be permanently satisfied and cease to be levied, upon annexation of the Parcel to District #2.

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND DETERMINED by the Council of the City of Modesto, as follows:

SECTION 1: The above recitals are true and correct.

SECTION 2: For the Parcel which was annexed to District #1 and which subsequently annexed to District #2, the special tax obligation authorized to be levied pursuant to Resolution No. 97-355, as amended, and Ordinance No. 3047-C.S., as amended, is no longer necessary to pay the costs and incidental expenses for services or for the construction of facilities authorized for District #1, and shall be permanently satisfied and cease to be levied, upon annexation of the Parcel to District #2.

SECTION 3: The City Clerk is hereby directed to record a Notice of Cessation of Special Tax for the special tax obligation authorized to be levied pursuant to Resolution No. 97-355, as amended, and Ordinance No. 3047-C.S., as amended, as the Parcel which was annexed to District #1 and subsequently annexed to District #2.

SECTION 4: The Notice of Cessation shall state that the obligation to pay the special tax authorized to be levied pursuant to City Council Resolution No. 97-355, as amended, and Ordinance No. 3047-C.S., as amended, has ceased and that the lien imposed by the Notice of Special Tax Lien recorded in the records of the County Recorder of Stanislaus County, State of California, is extinguished.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

When Recorded Mail To:

City Clerk
City of Modesto
P.O. Box 642
Modesto, CA 95353

NOTICE OF CESSATION OF SPECIAL TAX LIEN

City of Modesto Community Facilities District No. 1997-1 (North Beyer Park)
City of Modesto, County of Stanislaus, State of California
The boundaries of which are shown on the map entitled
"**Annexation Map No. 2 of Community Facilities District No. 1997-1 (North Beyer Park), City of Modesto, County of Stanislaus, State of California**",
on file in Book 4 of the Book of Maps of
Assessment and Community Facilities Districts, at Page 63

Notice is hereby given that the obligation to pay the above-referenced Special Tax has ceased and that the lien imposed by the Amendment to Notice of Special Tax lien recorded on February 16, 2007, in the Office of the County Recorder of the County of Stanislaus, in the Official Records of the County, as Document #2007-0020665-00, is hereby extinguished for the parcel described below, and whose owner(s) of record is/are:

Mable, LLC, a California Limited Liability Company

Property description: 2141 Mable Avenue, Modesto, CA 95355

Assessor's Parcel Number: 082-025-002 (Parcel 2; 55-PM-12) (Formerly APN: 082-005-009)

Date: _____, 2007

_____

JEAN MORRIS, City Clerk

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-670

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF CISCO SMARTNET HARDWARE MAINTENANCE FOR THE INFORMATION TECHNOLGY DEPARTMENT TO NEXUS IS, INC., VALENCIA, CA, FOR A TERM OF THREE (3) YEARS, AT AN ESTIMATED ANNUAL COST OF $42,659, AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN ANNUAL PAYMENT AGREEMENT AT 0% FINANCING WITH CISCO SYSTEMS, AND AUTHORIZE THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT.

WHEREAS, in 2004, the City standardized all switching and routing network equipment on Cisco Systems, Inc. The City's networking infrastructure is key to providing host connectivity to all data services including e-mail, telephone and telecom, video conferencing, 9-1-1 dispatch, Interactive Voice Response (IVR), Wireless Fidelity (Wi-Fi), the INET and internet access to all departments , and

WHEREAS, network uptime and optimization are critical components of the high operational standards the City's I.T. Network Division takes seriously and are partially achieved through vendor support contracts. These contracts provide a triage of support that assist staff in maintaining a "five nines" level of operational service, and

WHEREAS, Cisco SMARTnet Service is a technical support service that provides City staff with direct, anytime access to Cisco engineers and an extensive range of technical resources. SMARTnet delivers rapid issue resolution, flexible device-by-device coverage, and premium service options to help maximize operational efficiency, and

WHEREAS, on May 22, 2007, the City Council approved Resolution No. 2007-292 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of Cisco SMARTnet hardware maintenance for a term of three (3) years on behalf of the Information Technology Department, and

WHEREAS, on August 15, 2007, the Purchasing Division issued RFB No. 0708-03 for the purchase of Cisco SMARTnet hardware maintenance to six (6) prospective bidders, two (2) of which were local companies, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on September 11, 2007, RFB's were formally opened in the City Clerk's office. Of the six (6) prospective bidders, three (3) companies chose to respond, and

WHEREAS, one company submitted a non-responsive and non-responsible bid and the bid submittal was rejected, and

WHEREAS, based on being deemed the lowest responsive and responsible bidder, City staff recommends the award of bid and contract for the purchase of Cisco SMARTnet hardware maintenance to Nexus IS, Inc., Valencia, CA, for a term of three (3) years, at an estimated annual cost of $42,659, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of Cisco SMARTnet hardware maintenance for the Information Technology Department conforms to the Modesto Municipal Code,

WHEREAS, funds are budgeted and available in the following account for the purchase of Cisco SMARTnet hardware maintenance in FY 07/08, account number 7130-070-0743-0223,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of Cisco SMARTnet hardware maintenance to Nexus IS, Inc., Valencia, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, shall sign an annual payment agreement with Cisco Systems and the Purchasing Manager is hereby authorized to issue a purchase agreement for a term of three (3) years, at an estimated annual cost of $42,659.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-671

A RESOLUTION APPROVING AN AGREEMENT FOR FIRE PROTECTION SERVICES BETWEEN THE WOODLAND AVENUE FIRE PREVENTION DISTRICT AND THE CITY OF MODESTO, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, for many years the Woodland Avenue Fire Protection District has protected several county islands within the City of Modesto, and

WHEREAS, in many of these islands the Modesto Fire Department responds in addition to the Woodland Avenue Fire Protection District through an adopted Automatic Aid Agreement, and

WHEREAS, several county islands are far closer to Modesto Fire Stations, and the Modesto Fire Department arrives first on scene, and often cancels Woodland Avenue Fire Prevention District's resources, and

WHEREAS, the current agreement expires in August 2008, and it is critical to establish a new, long-term agreement prior to this date, and

WHEREAS, First response from multiple agencies is often unnecessary and increases the number of emergency vehicles traveling "code 3" (lights and sirens), and

WHEREAS, this Agreement would shift both primary emergency response and revenue to the Modesto Fire Department, and

WHEREAS, the Safety and Communities Committee approved this request at the November 5, 2007, meeting for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for fire protection services between the Woodland Fire Protection District and the City of Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-672

A RESOLUTION APPROVING THE TIMELINE FOR CITIZEN PARTICIPATION CALENDAR OF EVENTS FOR FISCAL YEAR 2008-2009 HUD ANNUAL ACTION PLAN, AND CDBG AND ESG PUBLIC SERVICE GRANTS.

WHEREAS, the Department of Housing and Urban Development (HUD) regulations require that the City of Modesto have a Citizen Participation Plan that contains the City's procedures for community participation in development of the Annual Action Plan for the use of Community Development Block Grant (CDBG), HOME Investments Partnership Grant (HOME), and Emergency Shelter Grant (ESG) funds, and

WHEREAS, on September 13, 1005, by Resolution No. 2005-470, the City Council adopted and amended its Citizen Participation Plan, and

WHEREAS, the Fiscal Year 2008-2009 Citizen Participation Calendar of Events contains the Annual Action Plan activities, public advertisement dates, and public service grant activities for CDBG and ESG funds, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on October 26, 2007, and supported the recommended timeline for the Citizen Participation Calendar of Events for Fiscal Year 2008-2009 HUD Annual Action Plan, and CDBG and ESG Public Service Grants,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the timeline for Citizen Participation Calendar of Events for the Fiscal Year 2008-09 HUD Annual Action Plan, and CDBG and ESG Public Service Grants, a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

City of Modesto
HUD Programs – Fiscal Year 2008-2009
Citizen Participation Calendar of Events

Date	Time	Activity
26 Oct 07 (Friday)	Noon	CH&CDC meeting to consider draft Timeline for Annual Action Plan, Public Service Grants, and Citizen Participation Calendar of Events, Room 3001, Tenth Street Place
13 Nov 07 (Tuesday)	5:30 PM	City Council meeting to approve Timeline for Annual Action Plan, Public Service Grants, and Citizen Participation Calendar of Events, Council Chambers, Tenth Street Place
10 days prior to workshops		Ad placed in local English and Spanish language newspapers announcing Staff Technical Assistance Workshops for Public Service Grants
16 Jan 08 (Wednesday)		Application period for Public Service Grants (January 16, 2008 to February 15, 2008)
16 Jan 08 to 12 Feb 08		Staff Technical Assistance Workshops for Public Service Grants (two sessions will be provided during this time)
15 Feb 08 (Friday)	5:00 PM	Public Service Grant applications due
18 Feb 08 to 03 Mar 08		Analysis of Public Service Grant applications by staff and Review Committee
20 Feb 08 (Wednesday)		Ad placed in local Spanish language newspaper on community meetings to obtain input for Annual Action Plan
23 Feb 08 (Saturday)		Ad placed in local English language newspaper on community meetings to obtain input for Annual Action Plan
03 Mar 08 to 28 Mar 08		Community meetings to obtain input to the Annual Action Plan • Maddux Youth Center 6:00 PM • Modesto Senior Citizens Center 6:00 PM • King Kennedy Memorial Center 6:00 PM • McHenry Museum 10:00 AM (Service Providers)
by 21 Mar 08 (Friday)		Public Service Grants Review Committee to review grant applications
28 Mar 08 (Friday)	Noon	CH&CDC meeting to consider Public Service Grant applications, Council Chambers, Tenth Street Place
29 Mar 08 (Saturday)		30-day Public Notice placed in local English language newspaper announcing the availability of 2008-2009 Annual Action Plan for review and comments (04 Apr to 06 May)
02 Apr 08 (Wednesday)		30-day Public Notice placed in local Spanish language newspaper announcing the availability of 2008-2009 Annual Action Plan for review and comments (04 Apr to 06 May)
22 Apr 08 (Tuesday)	5:30 PM	City Council meeting to approve funding recommendations for Public Service Grants, Council Chambers, Tenth Street Place
25 Apr 08 (Friday)	Noon	CH&CDC meeting to consider Draft 2008-2009 Annual Action Plan, Room 3001, Tenth Street Place
06 May 08 (Tuesday)	5:30 PM	City Council meeting and Public Hearing to approve recommendations for the 2008-2009 Annual Action Plan, Council Chambers, Tenth Street Place
16 May 08 (Friday)		2008-2009 Annual Action Plan due to HUD

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-673

A RESOLUTION APPROVING A GRANT APPLICATION FOR $540,000 FROM THE SAFE ROUTES TO SCHOOL GRANT PROGRAM FOR FUNDING FOR THE CONSTRUCTION AND INSTALLTION OF 2,850 LINEAL FEET OF CURB, GUTTER, CURB RAMPS, SIDEWALK AND FENCING BETWEEN CALIFORNIA AVENUE AND MAZE BOULEVARD, ALONG THE MODESTO IRRIGATION DISTRICT'S LATERAL 4, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE APPROPRIATE DOCUMENTS

WHEREAS, The Safe Routes to School Grant Program ("Program") came into effect in 1999 with the passage of Assembly Bill 1475 (AB1475), and

WHEREAS, Section 2333.5 of the Streets and Highways Code calls for the Department of Transportation, in consultation with the California Highway Patrol (CHP), to make grants available to local governmental agencies under the Program, based upon the results of a statewide competition, and

WHEREAS, the goals of the Program are to reduce injuries and fatalities to school children and to encourage increased walking and bicycling among students, and

WHEREAS, the City of Modesto has an unpaved route from Maze Boulevard to California Avenue that is used by students going to and from Franklin Elementary School and Mark Twain Junior High School, and

WHEREAS, staff and community members believe that improvement to this path with 2,850 lineal feet of curb, gutter, curb ramps, sidewalk and fencing is an excellent match for the Safe Routes to School Grant Program, and

WHEREAS, the State of California has called for project proposals to be sent to the California Transportation Department by November 16, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

1. The filing of a grant application for $540,000 from the State Safe Routes to School Grant Program is hereby approved.

2. The City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-674

A RESOLUTION APPROVING A SIXTY (60) DAY EXTENSION TO A 6-MONTH PROVISIONAL APPOINTMENT FOR NATHAN GORTH AS COMPOST FACILITY SUPERVISOR

WHEREAS, the Parks, Recreation and Neighborhoods Department has a vacant Compost Facility Supervisor position, and

WHEREAS, Nathan Gorth was provisionally appointed as Compost Facility Supervisor on May 29, 2007, and

WHEREAS, the Parks, Recreation and Neighborhoods Department desires to extend the provisional appointment of Nathan Gorth to this position until a successful candidate can be hired in the capacity of Compost Facility Supervisor, and

WHEREAS, Modesto Personnel Rule 7.5 (c) requires Council approval if a provisional appointment is to exceed the six-month period authorized by said rule, and

WHEREAS, staff is requesting that the City Council approve a sixty (60) day extension to this provisional appointment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a sixty (60) day extension to the six-month provisional appointment of Nathan Gorth to the position of Compost Facility Supervisor is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-675

A RESOLUTION APPROVING THE PROCEDURE AND COST RECOVERY SCHEDULE FOR BOARD UP AND MAINTENANCE OF ABANDONED AND UNSECURED RESIDENTIAL PROPERTIES

WHEREAS, a report issued in May 2007 from ForeclosureDatabank.com, an extensive foreclosure listings database, confirms that foreclosure activity across the United States, as measured by total numbers of filings, continues the steep trend upward, and

WHEREAS, due to the increasing numbers of foreclosed properties that appear to be abandoned, the City of Modesto has started to track abandoned properties, mainly residential in nature, and

WHEREAS, on September 7, 2007, Neighborhood Preservation Unit (NPU) staff identified and confirmed 185 abandoned residential properties in Modesto, and

WHEREAS, while the majority of these abandoned residential properties are currently secured, the condition of the landscaping and buildings of over 90% of inventoried properties is in a state of deterioration, and

WHEREAS, at least 33 or 18% of the identified abandoned residential properties currently are unsecured, and

WHEREAS, Neighborhood Preservation Unit staff is proposing to assess fees to property owners of abandoned and unsecured properties that have previously been adopted by the City Council, and

WHEREAS, Section 4-12.404 of the Modesto Municipal Code authorizes the imposition and collection of reinspection fees, and

WHEREAS, Sections 9-8.05.01 and 9-8.07.01 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish fees associated with a dangerous building, and

WHEREAS, on April 12, 2007, by Resolution No. 2007-163, the City established the Substandard and Dangerous Building Code Fees, and

WHEREAS, City staff proposes a procedure and cost recovery schedule for the initial board up and maintenance of abandoned and unsecured residential buildings, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and supported staff's recommendation to appropriate $50,000 from the General Fund Reserve, to Neighborhood Preservation, Abandoned Home Expenses, for initial funding to implement the procedure and costs for board up and maintenance of abandoned and unsecured residential properties, and

WHEREAS, the Finance Committee met on October 22, 2007, and supported staff's recommendation to appropriate $50,000 from the General Fund Reserve, to Neighborhood Preservation, Abandoned Home Expenses, for initial funding to implement the procedure and costs for board up and maintenance of abandoned and unsecured residential properties,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the procedure and cost recovery schedule for board up and maintenance of abandoned and unsecured residential properties as follows:

1. A case will be set up when NPU staff receives a call regarding an abandoned and unsecured residential property, or NPU staff identifies the property while out in the field.

2. NPU staff will make contact with the legal owner of the property. In many cases, this is an arduous task depending on the chain of title, and the status of the foreclosure action. Many times, a property can change ownership several times during real estate transactions and it is often difficult to ascertain the true owner of the property. Additionally, many mortgage businesses are going bankrupt, so tracking of owner of loans from these agencies adds to the complexity of this matter. The process of locating the responsible owner/trustee or beneficiary may take more than two weeks.

3. Once the property owner is identified, a Notice and Order to "Board and Abate" will be sent to the property owner. The property owner will be given 15 days to secure the property and remove all garbage, debris, and weeds, etc. on site. The property owner must secure the residential building according to the specifications provided to the property owner.

4. If the property is secured and free of garbage, debris, and weeds, etc., the case will be placed on a pending list. Since the status of an abandoned property can change rapidly, the property will be inspected on a monthly basis to track the condition of the property. The property owner will be assessed a code enforcement inspection fee based on fees previously adopted by the City Council.

5. If the property is not secured and free of garbage, debris, and weeds, etc., NPU staff will contact a certified and insured contractor to board up the building and clean the property. A lien on the property for the initial cost of board up and cleaning will be placed on the property. The property will be inspected monthly at the adopted inspection fee. If the condition of the property does not meet minimum standards, and the property owner is unresponsive, NPU staff will arranged for cleaning, and the established cleaning charges will be assessed against the property, and

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-676

A RESOLUTION AMENDING THE FISCAL YEAR 2007-08 OPERATING BUDGET TO APPROPRIATE $50,000 FROM 0100-800-8000-8003,THE GENERAL FUND RESERVE, TO 0100-370-3770-0515, NEIGHBORHOOD PRESERVATION, ABANDONED HOME EXPENSES, FOR INITIAL FUNDING TO IMPLEMENT THE PROCEDURE AND COSTS FOR BOARD UP AND MAINTENANCE OF ABANDONED AND UNSECURED RESIDENTIAL PROPERTIES

WHEREAS, a report issued in May 2007 from ForeclosureDatabank.com, an extensive foreclosure listings database, confirms that foreclosure activity across the United States, as measured by total numbers of filings, continues the steep trend upward, and

WHEREAS, due to the increasing numbers of foreclosed properties that appear to be abandoned, the City of Modesto has started to track abandoned properties, mainly residential in nature, and

WHEREAS, on September 7, 2007, Neighborhood Preservation Unit (NPU) staff identified and confirmed 185 abandoned residential properties in Modesto, and

WHEREAS, while the majority of these abandoned residential properties are currently secured, the condition of the landscaping and buildings of over 90% of inventoried properties is in a state of deterioration, and

WHEREAS, at least 33 or 18% of the identified abandoned residential properties currently are unsecured, and

WHEREAS, Neighborhood Preservation Unit staff is proposing to assess fees to property owners of abandoned and unsecured properties that have previously been adopted by the City Council, and

WHEREAS, Section 4-12.404 of the Modesto Municipal Code authorizes the imposition and collection of reinspection fees, and

WHEREAS, Sections 9-8.05.01 and 9-8.07.01 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish fees associated with a dangerous building, and

WHEREAS, on April 12, 2007, by Resolution 2007-163, the City established the Substandard and Dangerous Building Code Fees, and

WHEREAS, the amount of funds required to secure and clean the current unsecured properties is estimated at $43,400, and

WHEREAS, the current budget allocated to the NPU includes only $8,000 for board up services, and

WHEREAS, staff is requesting an additional $50,000 to initially fund the proposed board up and cleaning program, and

WHEREAS, the costs will eventually be recovered by the City of Modesto from fees; however, the time required to collect the fees will vary depending on the length of time necessary to sell the assessed property, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and supported staff's recommendation to appropriate $50,000 from the General Fund Reserve, to Neighborhood Preservation, Abandoned Home Expenses, for initial funding to implement the procedure and costs for board up and maintenance of abandoned and unsecured residential properties, and

WHEREAS, the Finance Committee met on October 22, 2007, and supported staff's recommendation to appropriate $50,000 from the General Fund Reserve, to Neighborhood Preservation, Abandoned Home Expenses, for initial funding to implement the procedure and costs for board up and maintenance of abandoned and unsecured residential properties,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approved amending the Fiscal Year 2007-08 operating budget to appropriate

$50,000 from 0100-800-8000-8003, the General Fund Reserve, to 0100-370-3770-0515, Neighborhood Preservation, Abandoned Home Expenses, for initial funding to implement the procedure and costs for board up and maintenance of abandoned and unsecured residential properties.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-677

A RESOLUTION APPROVING AN AGREEMENT FOR CONSULTANT SERVICES WITH GREENSPAN ADJUSTERS INTERNATIONAL FOR ADVICE AND ASSISTANCE IN THE MEASUREMENT AND DOCUMENTATION OF THE CITY'S LOSS AND DAMAGE RESULTING FROM A FIRE ON OCTOBER 14, 2007, AT THE CITY-OWNED PROPERTY LOCATED AT 800 E. MORRIS AVENUE IN MODESTO, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT.

WHEREAS, early Sunday morning, October 14, 2007, a fire destroyed the building known as the old John Muir School (Modesto Community Service Center) in T. B. Scott Park and many of its contents, primarily historical artifacts stored on the second floor, and

WHEREAS, artifacts stored in one room on the first floor were salvaged, and Belfor Property Restoration is in the process of stabilizing items in preparation for review, and

WHEREAS, staff worked diligently to address the emergency presented by the unstable structure, and

WHEREAS, the Chief Building Official for the City stated that the building is not safe to occupy and has written a letter stating so, and

WHEREAS, staff has acquired a partial permit from the Air Quality Board stating that the walls can be knocked down and the brick may be recycled, and

WHEREAS, once this process has been completed staff will need to apply for the next phase of the permit and then complete the abatement, and

WHEREAS, a brick recycling contractor has contacted Modesto Sand and Gravel stating that they would like to recycle the brick, and

WHEREAS, staff will be saving twenty pallets of bricks (10,000 bricks) to use in future fundraising efforts, and

WHEREAS, before any demolition can occur, the process of evaluating the building must be accomplished, and

WHEREAS, this evaluation process began shortly after the fire was extinguished by contractors of the City's insurance company (Lexington), and

WHEREAS, as late the week of October 29, 2007, site visits by the engineering firm continued to be performed, and

WHEREAS, during this same period an independent claims adjusting firm (Greenspan International) offered a proposal to the City whereby they would act as the City's claim adjuster, performing a cost evaluation for the building and its contents, and WHEREAS, this firm has an impressive reputation among public entities including the City of Turlock, and Modesto City Schools, and

WHEREAS, per the terms of the Agreement, Greenspan would receive 1% for the first $4 million paid, and 3% of all monies paid between $4 and $6 million, and 6% of all monies paid between $6 and $10 million and 7% of all monies paid over $10 million, and

WHEREAS, once the claim amount and payment have been determined, staff will prepare the appropriate budget adjustment documents,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Agreement for Consultant Services with Greenspan Adjusters International for advice and assistance in the measurement and documentation of the City's loss and damage resulting from a fire on October 14, 2007, at the City-owned property located at 800 E. Morris Avenue in Modesto, California.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November 2007, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-678

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

Rate and Fee Analyst

The job specification for this classification is being created to assist in the development of the various utility rate, utility capital facility fee and non-utility fee studies. The job specification for the classification of Rate & Fee Analyst, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 13, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
No. 3520 November 2007

Rate and Fee Analyst

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To research and present recommendations on rate and fee structures (primarily utility fees), services, policies and economic issues related to the management of a municipal utility and to fulfill other special assignments as delegated.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from the Finance Director or the Director's designee.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Collect and research data and prepare reports related to utility rates and services.

Review financial data to identify potential errors and omissions, which could affect the revenue generation of a utility operation or other program.

Analyze financial data to identify trends in revenue and expenditures related to utility programs or other fee-based programs.

Answer questions and provide information to the public, outside agencies and city staff related to the analyses performed on financial data of utility or other fee-based programs.

Work with consultants to assist in the preparation of complex fee studies and monitor consultant performance.

Develop Request for Proposal documents and lead the evaluation of responses; recommend the preferred vendor with a defensible justification.

Working independently, prepare less complex rate studies for various fee-based programs.

Essential Functions: (Continued)

Prepare special studies or reports as requested.

Prepare written and oral presentations, including statistical information in a clear, concise manner; identify and defend one or more recommendations in front of management, Council members and members of the public.

Establish rate and fee program implementation guidelines and monitor progress of the implementation to ensure success.

Successfully implement noticing requirements for proposed land-based in accordance with applicable regulatory guidelines, especially Proposition 218.

Develop information, including various statistics, to support the issuance of debt supported by utility or other revenue sources.

Attend City Council, Commission, task force and other governmental meetings.

Draft complex documents such as Council Resolutions and Ordinances; prepare and present agenda items to the City Council.

Serve on various committees and task forces as necessary.

Build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

Marginal Functions:

Perform other duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of municipal utility operations and rate setting guidelines, including Proposition 218.

Municipal debt issuance disclosure standards.

Statistical analysis methods and modes of graphic presentation.

Modern office procedures, methods and computer equipment.

Knowledge of: (Continued)

Principles of governmental financial reporting.

Generally accepted writing practices in a professional and technical environment.

Generally accepted principles and practices for setting fees related to fee-based programs.

Ability to:

Analyze financial data, develop conclusions based on the analysis and recommend one or more needed actions to prevent or solve problems.

Establish effective financial monitoring practices and tools to track financial trends in utility and other fee-based programs.

Identify cost/benefit relationships; establish nexus between functions.

Work with and control sensitive and confidential information.

Accurately estimate and project revenues and expenditures.

Plan, initiate and complete work assignments with a minimum of direction.

Use and operate a personal computer with a variety of business software programs; be able to utilize Excel at an advanced user level and Access at an intermediate user level.

Communicate clearly, concisely and confidently, both orally and in writing.

Promote positive and effective working relationships with those contacted in the course of work, including the public and governing body members.

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Three years of progressively responsible professional financial experience in a public sector agency including responsibility for setting rates and fees, or a closely related function.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major coursework in public administration, business administration, accounting, finance, economics, statistics or a closely related field.

WORKING CONDITIONS

Environmental Conditions:

Work is performed in a typical temperature-controlled office environment subject to typical office noise and environment. Positions require occasional overtime or weekend work and the ability to travel.

Physical and Mental Requirements:

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 10 pounds; occasionally up to 25 pounds. **Vision**: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity**: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking, in person and on the phone. **Emotional/Psychological**: frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental**: frequent exposure to noise.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-679

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2007-447 AMENDING THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES ESTABLISHING THE CLASSIFICATION OF RATE AND FEE ANALYST AT SALARY RANGE 435

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2007-447, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. AMENDMENT TO RESOLUTION NO. 2007-447 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective July 24, 2007", attached to Resolution No. 2007-447, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective November 13, 2007, " which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" adds the classification of Rate and Fee Analyst at Salary Range 435 to the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 13, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective November 13, 2007

RANGE	TITLE
403	
407	Administrative Clerk II (Confidential) Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Administrative Technician (Confidential)
414	
415	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential) Workers' Compensation Claims Assistant
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

RANGE	TITLE
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor Parking Services Supervisor
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Police Civilian Supervisor Stores Manager Supervising Animal Control Officer Systems Technician III
427	Assistant City Clerk/Auditor Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Senior Crime Analyst Software Analyst I
431	Administrative Analyst II Assistant Risk Manager Budget Analyst I Personnel Analyst Recycling Program Coordinator

RANGE	TITLE
432	Communications Specialist Compost Facility Supervisor Customer Services Supervisor Junior Civil Engineer Junior Traffic Engineer Neighborhood Preservation Supervisor Operations and Maintenance Supervisor Recreation Supervisor II Senior Accountant Water Quality Control Maintenance Supervisor
433	Organizational Development Specialist
434	Budget Analyst II Environmental Laboratory Supervisor Operations Supervisor Regulatory Compliance Supervisor SCADA Supervisor Senior Community Development Program Specialist Senior Housing Rehabilitation Specialist Software Analyst II Supervising Accountant Systems Engineer I
435	Business Analyst Cultural Services Manager Emergency Medical Services Coordinator Integrated Waste Specialist Management Analyst **Rate and Fee Analyst** Senior Personnel Analyst Weed and Seed Program Coordinator
436	Assistant Civil Engineer Assistant Traffic Engineer Electrical Supervisor Senior Planner
437	

RANGE	TITLE
438	Budget Officer
	Events Supervisor
	Housing Program Supervisor
	Land Surveyor
	Property Agent
	Public Safety Business Services Analyst
	Senior Business Analyst
	Software Analyst III
	Systems Engineer II
439	Administrative Services Officer
	Community Facilities Districts Administrative Officer
440	Transportation Planner
	Water Quality Control Operations Supervisor
441	Airport Manager
	Building Maintenance Superintendent
	Fleet Manager
	Housing and Urban Development Manager
	Parks Operations Superintendent
	Parks Planning and Development Manager
	Purchasing Manager
	Recreation Program Manager
	Streets Superintendent
	Urban Forestry Superintendent
	Wastewater Collections Superintendent
442	Customer Services Division Manager
	Manager of Budget and Financial Analysis
	Software Analyst IV
	Supervising Construction Inspector
	Systems Engineer III
443	Associate Civil Engineer
	Associate Traffic Engineer

RANGE	TITLE
444	Principal Planner Solid Waste Program Manager Supervising Building Inspector Transit Manager
445	Accounting Division Manager
446	Deputy Chief Building Official Information Technology Unit Manager Wastewater Treatment Plant Manager
447	Business Development Division Manager Planning Division Manager Water Superintendent
448	
449	
450	Chief Building Official Senior Civil Engineer Traffic Engineer
451	
452	
453	
455	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-680

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for Project Coordinator and re-title to Parks Project Coordinator at salary range 432. The job specification for the classification of Parks Project Coordinator, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 13, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-680

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for Project Coordinator and re-title to Parks Project Coordinator at salary range 432. The job specification for the classification of Parks Project Coordinator, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 13, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____

SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
No. 3162

~~MARCH 2000~~
NOVEMBER 2007

PARKS PROJECT COORDINATOR

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

~~To assist the Parks Planning and Development Manager in the management of Capital improvement Projects and park and trail rehabilitation projects, planning and design of park and trail facilities, and in the facilitation of public input into the design process.~~ To manage Parks Projects including Capital Improvement Projects (CIP), Park Partners Program and compliance with environmental regulations and City development standards.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Parks Planning and Development Manager.

May exercise project-specific ~~direct~~ functional supervision over technical and clerical staff in assigned area.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

~~Prepare landscape and irrigation plans and specifications for minor renovation projects; park improvement projects and trail projects; inspect park landscaping and trail projects.~~

~~Assist in the review of construction documents for various Capital Improvement Projects.~~

~~Assist in the planning and design of park and trail improvements in accordance with capital improvement program and national standards and guidelines~~.

~~Assist in the administration of contracts with consultants and contractors, to ensure terms and conditions of the contract are met, including the inspection of work in progress, evaluating the quality of work and materials used, analyzing change order requests, approving progress payments and ensuring the satisfactory completion of work.~~

Essential Functions: (Continued)

~~Identify and assist with the acquisition of property suitable for park development.~~

~~Review Environmental Impact Reports and other reports pertaining to park development.~~

~~Plan and facilitate neighborhood and community meetings related to park planning, development and improvement.~~

~~Coordinate the activities of the City's Park Partners Program, including contacting local groups to secure interest, assisting groups in identifying appropriate projects, assisting with fundraising efforts, serving as project coordinator, facilitating meetings and project decisions, and overseeing the construction and completion of the projects.~~

Coordinate and manage Parks Capital Improvement Projects (Parks, Trails, Streets and Streetscapes and Building Facilities), including media contact/interaction, administration of contracts with consultants/contractors, management of outside consultants in the preparation of construction documents and cost estimates, and inspection of construction to ensure City codes and standards are met.

Coordinate and manage Park Partner volunteer projects, including contact with local groups to secure interest, raise funds, facilitate meetings, coordinate materials purchases and deliveries and supervise volunteers and City forces in the construction and completion of projects.

Provide technical and professional support services to city staff, including other departments, relative to assigned area of responsibility.

Design and update the City's standards for landscape, irrigation, streetscape and park development including meeting with representatives of the construction and building industry to implement new City standards and development processes.

Maintain records of all plans and contract documents and prepare and maintain records for plan checking procedures.

Provide technical input, including cost estimates, for the preparation of the City Operating Budget and CIP budget.

Prepare, manage and review Environmental Impact, CEQA, NEPA and other regulatory agency documents and permits.

Essential Functions: (Continued)

Coordinate and conduct public meetings on the development of neighborhood, community and regional parks including preparation of reports and multi-media presentations to the City Council and citizens.

Perform Acting Division Management in the absence of the Division Manager, including attending managerial meetings.

Monitor work and provide training to staff which may include volunteers, interns, and alternative work force and on a variety of assignments.

Use and provide technical assistance of AutoCAD to design/refine designs of construction projects.

Inspect play equipment for compliance with safety and accessibility requirements.

Prepare and manage county, state and federal grant applications for CIP projects.

Identify and assist with the acquisition of property suitable for park development.

Provide information to citizens and public information staff and respond to and resolve citizen inquiries and complaints.

Manage fund development as it relates to CIP and Park Partners projects.

Investigate field problems affecting property owners, contractors and maintenance operations.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

~~Principles, practices and methods of landscape architecture, architecture and civil engineer professions as applied to open space design, park and park facilities design and construction installation.~~

Knowledge of: (Continued)

~~Construction document blueprint reading and construction installation methods.~~

Local codes, regulations, ordinances and regional planning policies pertaining to land use and park planning and development.

Federal and State environmental policies, regulations and requirements.

Practices and principles of construction administration and construction inspections.

Principles, practices and methods of the Landscape Architecture, Architecture and Civil Engineering professions as applied to park and park facilities design and construction installation.

Practices and principles of municipal budgeting.

Ability to:

~~Prepare and review construction plans and specifications, construction drawings, cost estimates and bid documents.~~

~~Administer Capital Improvement Projects, including planning, coordination and review of open space facility planning and site development.~~

~~Operate a variety of general and technical software, including CAD systems, project management software and spreadsheets.~~

~~Make presentations to a variety of private citizens, public groups, boards, commissions, councils and other organizations.~~

~~Communicate effectively, using graphic instructions such as blueprints, layouts or other visual aids.~~

~~Effectively facilitate public design workshops.~~

Establish and maintain cooperative working relationships with those contacted in the course of work.

Communicate effectively using graphic information such as blueprints, layouts or other visual aids.

Effectively facilitating public design workshops; negotiating outcome on a variety of issues.

Ability to: (Continued)

Analyze complex design issues and effectively resolve them.

Effectively incorporate fund-development processes in capital improvement projects.

Effectively present to a variety of private citizens, public groups, boards, commissions, councils and other organizations, resulting in successful city/community partnerships.

Effectively create landscape architectural designs and construction documents that meet the needs of the citizens.

Prepare and review construction plans and specifications, construction drawings, cost estimates and bid documents.

Administer Capital Improvement Projects, including planning, coordination and review of park and park facilities site development.

Operate a variety of general technical software, including CAD systems, project management software, word processing and spreadsheets.

Create multi-media presentations for private citizens, public groups, board, commissions, councils and other organizations.

Establish and maintain cooperative working relationships with those contacted in the course of work.

Multi-task and work effectively in a fast-paced environment.

Experience and Training Guidelines:

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Two years of increasingly responsible experience in capital improvement program management including planning, design and development of parks landscaping.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major coursework in construction administration, land use planning, civil engineering, landscape architecture, public or business administration or a related field.

License or Certificate:

Possession of, ~~or ability to obtain~~, an appropriate, valid California driver's license.

Possession of, or ability to obtain, a registered Landscape Architect license, certification as a Landscape Designer or registered Civil Engineer license is highly desired.

WORKING CONDITIONS

Environmental Conditions:

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment; some field work is required and travel from site-to-site. Positions may require occasional overtime or weekend work.

Physical and Mental Requirements:

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting:** frequently up to 10 pounds; occasionally up to 25 pounds. **Vision:** constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity:** frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking:** frequent hearing and talking, in person and on the phone. **Emotional/Psychological:** frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental:** frequent exposure to noise.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-681

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-319 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES TO DELETE PROJECT COORDINATOR FROM SALARY RANGE 130.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-319, which approved the Class Range Table for General Non-Sworn Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. AMENDMENT TO RESOLUTION NO. 2006-319. Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective May 23, 2006," attached to Resolution No. 2006-319, is hereby amended as shown on the amended **Exhibit "A"** entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective November 13, 2007," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" deletes Project Coordinator from salary range 130.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 13, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective **November 13, 2007**

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Exhibits Coordinator
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Electrical Technician I Equipment Service Technician Maintenance Worker II Production Technician Storeskeeper

RANGE	TITLE
115	Accounting Technician
	Administrative Services Technician I
	Customer Services Account Clerk III
	Senior Administrative Office Assistant
116	Equipment Operator
	Motor Sweeper Operator
	Traffic Operations Technician
	Used Oil Coordinator
	Wastewater Collection System Operator
	Water Distribution Operator I
117	Electrical Technician II
118	Customer Services Accounting Technician
	Fleet Procurement Specialist
	Parking Lot Maintenance Crewleader
	Parks Crewleader
	Recreation Coordinator
	Senior Storeskeeper
	Tree Trimmer
	Water Distribution Operator II
119	Administrative Services Technician II
	Assistant Buyer
	Building Maintenance Mechanic
	Civil Engineering Technician I
	Code Enforcement Officer-Neighborhood Preservation I
	Maintenance Mechanic – Parks
	Maintenance Mechanic – Pumps
	Public Information Technician
120	Accountant I
	Assistant Electrician
	Laboratory Analyst I
	Senior Equipment Operator
	Traffic Painter Crewleader
	Wastewater Treatment Plant Operator I
	Water Resource Specialist I
	Welder/Fabricator

RANGE	TITLE
121	Solid Waste Enforcement Officer
122	Equipment Mechanic Fire Equipment Mechanic Tree Trimmer Crewleader
123	Airport Maintenance Crewleader Civil Engineering Technician II Code Enforcement Officer-Neighborhood Preservation II Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I Cross Connection Specialist Environmental Compliance Inspector I Heavy Equipment Mechanic Laboratory Analyst II Operation and Maintenance Crewleader Planning Assistant Plant Mechanic Wastewater Treatment Plant Operator II Water Conservation Specialist Water Distribution Operator III Water Production Operator I Water Resource Specialist II Water Services Equipment Operator I
126	Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I Wastewater Treatment Plant Operator III
127	Civil Engineering Assistant Senior Fire Equipment Mechanic
128	Building Inspector I Community Development Program Specialist II Electrician Environmental Compliance Inspector II Heavy Equipment Mechanic Crewleader Instrument Repair Technician Water Production Operator II Water Services Equipment Operator II

RANGE	TITLE
129	
130	Construction Inspector Housing Rehabilitation Specialist II Laboratory Analyst III Senior Wastewater Treatment Plant Operator
131	Senior Civil Engineering Assistant
132	Building Inspector II Environmental Review Specialist Senior Environmental Compliance Inspector Water Division Crewleader
133	
134	Plan Review Engineer Senior Construction Inspector
136	Senior Building Inspector

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-682

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2007-447 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES ADDING PARKS PROJECT COORDINATOR AT SALARY RANGE 432

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2007-447, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. AMENDMENT TO RESOLUTION NO. 2007-447 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective July 24, 2007", attached to Resolution No. 2007-447, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective November 13, 2007," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" adds the classification of Parks Project Coordinator at Salary Range 432 ($4,917-$5,991 per month) to the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 13, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-682

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2007-447 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES ADDING PARKS PROJECT COORDINATOR AT SALARY RANGE 432

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2007-447, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. AMENDMENT TO RESOLUTION NO. 2007-447 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective July 24, 2007", attached to Resolution No. 2007-447, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective November 13, 2007," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" adds the classification of Parks Project Coordinator at Salary Range 432 ($4,917-$5,991 per month) to the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 13, 2007.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective November 13, 2007

RANGE	TITLE
403	
407	Administrative Clerk II (Confidential) Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Administrative Technician (Confidential)
414	
415	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential) Workers' Compensation Claims Assistant
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

RANGE	TITLE
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor Parking Services Supervisor
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Police Civilian Supervisor Stores Manager Supervising Animal Control Officer Systems Technician III
427	Assistant City Clerk/Auditor Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Senior Crime Analyst Software Analyst I
431	Administrative Analyst II Assistant Risk Manager Budget Analyst I Personnel Analyst Recycling Program Coordinator

RANGE	TITLE
432	Communications Specialist
	Compost Facility Supervisor
	Customer Services Supervisor
	Junior Civil Engineer
	Junior Traffic Engineer
	Neighborhood Preservation Supervisor
	Operations and Maintenance Supervisor
	Parks Project Coordinator
	Recreation Supervisor II
	Senior Accountant
	Water Quality Control Maintenance Supervisor
433	Organizational Development Specialist
434	Budget Analyst II
	Environmental Laboratory Supervisor
	Operations Supervisor
	Regulatory Compliance Supervisor
	SCADA Supervisor
	Senior Community Development Program Specialist
	Senior Housing Rehabilitation Specialist
	Software Analyst II
	Supervising Accountant
	Systems Engineer I
435	Business Analyst
	Cultural Services Manager
	Emergency Medical Services Coordinator
	Integrated Waste Specialist
	Management Analyst
	Senior Personnel Analyst
	Weed and Seed Program Coordinator
436	Assistant Civil Engineer
	Assistant Traffic Engineer
	Electrical Supervisor
	Senior Planner
437	

RANGE	TITLE
438	Budget Officer
	Events Supervisor
	Housing Program Supervisor
	Land Surveyor
	Property Agent
	Public Safety Business Services Analyst
	Senior Business Analyst
	Software Analyst III
	Systems Engineer II
439	Administrative Services Officer
	Community Facilities Districts Administrative Officer
440	Transportation Planner
	Water Quality Control Operations Supervisor
441	Airport Manager
	Building Maintenance Superintendent
	Fleet Manager
	Housing and Urban Development Manager
	Parks Operations Superintendent
	Parks Planning and Development Manager
	Purchasing Manager
	Recreation Program Manager
	Streets Superintendent
	Urban Forestry Superintendent
	Wastewater Collections Superintendent
442	Customer Services Division Manager
	Manager of Budget and Financial Analysis
	Software Analyst IV
	Supervising Construction Inspector
	Systems Engineer III
443	Associate Civil Engineer
	Associate Traffic Engineer

RANGE	TITLE
444	Principal Planner Solid Waste Program Manager Supervising Building Inspector Transit Manager
445	Accounting Division Manager
446	Deputy Chief Building Official Information Technology Unit Manager Wastewater Treatment Plant Manager
447	Business Development Division Manager Planning Division Manager Water Superintendent
448	
449	
450	Chief Building Official Senior Civil Engineer Traffic Engineer
451	
452	
453	
455	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-683

A RESOLUTION AMENDING THE FISCAL YEAR 2007-08 OPERATING BUDGET TO APPROPRIATE $5,906 FROM 0100-800-8000-8003, THE GENERAL FUND RESERVE

WHEREAS, the Personnel Department conducted a classification study of three Project Coordinator positions that are responsible to coordinate and manage Parks Capital Improvement Projects (parks, trails, streets and streetscapes and building facilities), including media contact/interaction, administration of contracts with consultants/contractors, management of outside consultants in the preparation of construction documents and cost estimates, preparation of construction documents and cost estimates and inspection of construction to ensure City codes and standards are met, and

WHEREAS, the study identified a need to amend and re-title the class specification of Project Coordinator to Parks Project Coordinator to more accurately describe the duties and responsibilities of the positions, and

WHEREAS, upon review, the new classification was determined to be exempt from overtime under the Fair Labor Standards Act and was determined to be more appropriately allocated to the Management and Confidential bargaining unit, and

WHEREAS, the City and MCMA met and conferred on the salary and have agreed upon salary range 432, and

WHEREAS, the General Fund Reserve provided funding to appropriate organizations for recent salary increases for MCMA-represented employees, and

WHEREAS, these positions were not included in MCMA at that time and staff now is requesting that the Parks Planning and Development Services operating budget be

increased by $5,906 to cover the portion of the increased costs attributable to the 3% salary increase

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2007-08 budget to appropriate $5,906 from 0100-800-8000-8003, the General Fund Reserve, to 0100-310-3120-0181, Parks Planning and Development Services, Salary Adjustments.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-684

A RESOLUTION AUTHORIZING THE FIRST AMENDMENT TO THE INDEPENDENT CONTRACTOR SERVICES AGREEMENT WITH DOCTOR JOCELYN E. ROLAND FOR PSYCHOLOGICAL SERVICES TO INCLUDE ALL FULL-TIME COMMUNITY SERVICES OFFICERS AND IDENTIFICATION TECHNICIANS IN THE MODESTO POLICE DEPARTMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, May 22, 2007, council approved Resolution No. 2007-304 awarding the proposal and contract of psychotherapy services for the Police Department to Doctors Jocelyn E. Roland and Philip S. Trompetter, and

WHEREAS, the original contract provides counseling/therapy at no expense to all full-time, regular and reserve-sworn officers, and

WHEREAS, the first amendment would include all full-time Community Service Officers and Identification Technicians in the Modesto Police Department, and

WHEREAS, there are presently 349 employees (286 full-time sworn, 23 reserves, 37 Community Service Officers and 3 Identification Technicians) that will be covered under the contract with this amendment, and

WHEREAS, the Modesto Police Department will pay an additional $6,000 a year for a total of $58,000 annually to Psychological Services for the term of this Agreement,

WHEREAS, funds are budgeted in FY 07/08 Operating Buget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the first amendment to the Independent Contractor Services Agreement with Doctor Jocelyn E. Roland for psychological services to include all full-

time Community Services Officers and Identification Technicians in the Modesto Police Department ,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-685

A RESOLUTION APPROVING A 60-DAY EXTENSION TO THE SIX-MONTH PROVISIONAL APPOINTMENT FOR DENNIS TURNER AS DEPUTY DIRECTOR OF OPERATIONS (WASTEWATER)

WHEREAS, the Public Works Director appointed Fleet Manager Dennis Turner as the provisional Deputy Direction of Operations (Wastewater) on April 23, 2007, and

WHEREAS, the consulting firm of Bob Murray and Associates is still in the process of recruiting for the vacant Deputy Director of Operations (Wastewater) position. Qualified applicants are in the process of being interviewed, and an eligibility list will be established before the end of 2007, and

WHEREAS, Dennis Turner has been in this provision position for six months, and continuity of leadership is critical in this demanding role, and

WHEREAS, Personnel Rule 7.5(c) states, "A provisional appointment shall not exceed six months, except that the City Manager, with the approval of the City Council, may extend such period for not more than sixty days by any one action",

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a 60-day extension to the six-month provisional appointment for Dennis Turner as Deputy Director of Operations (Wastewater).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-686

A RESOLUTION A APPROVING THE CITY OF MODESTO'S PARTICIPATION IN THE NORTH COUNTY CORRIDOR PROJECT AND A PROJECT STUDY REPORT FOR THE OAKDALE BYPASS FUNDING AND AUTHORIZING THE CITY OF MODESTO TO PAY THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) $30,000 AS THE LEAD CONTRACTING AGENCY FOR THE PROJECT

WHEREAS, during the approval of the 2006 State Transportation Improvement Program (STIP) Augmentation, the California Transportation Commission (CTC) reallocate a part of the funding from the Oakdale Bypass project to fully fund the SR 99/Whitmore Interchange project as well as provide immediate needed funding to other state highway projects, and

WHEREAS, the CTC made a commitment to return the funds back to the Oakdale Bypass project in the 2008 STIP cycle, and

WHEREAS, the North County Corridor (NCC) project is being contemplated to develop a new roadway alignment traversing between SR 99 to the west and the city of Oakdale to the east, and

WHEREAS, this alignment will meander slightly to the north and south of the current Kiernan/Claribel corridor, and

WHEREAS, the proposed NCC is supported by the cities of Oakdale, Riverbank and Modesto and the County of Stanislaus, which are in the process of forming a Joint Powers Authority (JPA) to develop and implement the construction of this project, and

WHEREAS, in order to achieve this restructured project and maintain the Oakdale Bypass funding within the region, a Caltrans Standard Project Study Report (PSR) must be completed by April 1, 2008, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) is hiring a consultant to complete a PSR for the proposed North County Corridor (NCC), effectively between Dale Road to the west and the City of Oakdale to the east, and

WHEREAS StanCOG, Stanislaus County and the cities of Riverbank, Oakdale and Modesto will participate at up to $30,000 each to complete the PSR with StanCOG as the lead and contracting agency, and

WHEREAS, Caltrans District 10 will participate; however, they do not have the staff or funds to do the PSR in-house, and

WHEREAS StanCOG presented a staff report and proposed resolution at the StanCOG Citizens Advisory Committee meeting on October 31, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto's participation in the North County Corridor and a Project Study Report for the Oakdale bypass funding.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the payment of $30,000 to StanCOG as the lead contracting agency for the project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-687

Print

A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO CONFIRMING THE CANVASS OF THE REGULAR MUNICIPAL ELECTION WHICH WAS HELD IN THE CITY OF MODESTO ON NOVEMBER 6, 2007, AND DECLARING THE RESULTS OF SAID ELECTION.

WHEREAS, on Tuesday, November 6, 2007, a Regular Municipal Election was held in the City of Modesto (herein called "City") and in the Modesto High School District (herein called "District") of Stanislaus County to elect the following:

1. One Councilmember to Chair No. 1 for a four year term;
2. Once Councilmember to Chair No. 3 for a four year term;
3. One Councilmember to Chair No. 6 for a four year term;
4. One member to Mayor for a four year term;
5. Three Board of Education Members for four year terms; and

WHEREAS, as set forth in Section 5 hereof, Measures I and J were Advisory measures, and were submitted to the qualified electors in the November 6, 2007, City of Modesto election, and

WHEREAS, said election was held on Tuesday, November 6, 2007, in accordance with law and the proceedings of this Council, and the votes thereat received and canvassed, and the returns thereof ascertained, determined, and declared in all respects as required by law, and

WHEREAS, the City Clerk canvassed the returns of said regular municipal election in accordance with law, and certified the results of the election of the Council by a Certificate of Canvass and Statement of Votes dated November 27, 2007, a copy of which is attached hereto marked **Exhibit "A"** and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto as follows:

SECTION 1. Said canvass by the City Clerk as shown on the Certificate of Canvass and Statement of Votes and the results of the election are hereby ratified, confirmed and approved.

SECTION 2. That in accordance with Section 10264 of the Elections Code, a copy of said Certificate of Canvass and Statement of Votes, which is attached hereto marked as Exhibit "A" and made a part hereof, shows a complete tabulation of the following:

(A) The whole number of votes cast in the City.

(B) The whole number of votes cast in the Modesto High School District.

(C) The names of the persons voted for.

(D) For what office each person was voted for.

(E) The number of votes given in the City to each person.

(F) The number of votes given in the City for each Measure.

SECTION 3. That, at said Regular Municipal election, the following named persons having received a majority of the votes cast for the elective offices, as designated on Exhibit "A", are hereby declared to be duly and regularly elected to such office, and the City Clerk is hereby directed to issue a Certificate of election to each such persons, certifying his/her election to the office appearing after his/her name, and to administer to each of said persons the oath of office prescribed by the Constitution and laws of the State of California and the Charter of the City, to wit:

Garrard Marsh	Councilmember for a term of four years, Chair No. 3, Modesto City Council.

Brad Hawn	Councilmember for a term of four years, Chair No. 6, Modesto City Council.
Jim Ridenour	Mayor for a term of 4 years, Modesto City Council.
Gary Lopez	Member, Modesto Board of Education, for a term of four years.
Kimberly Gerber-Spina	Member, Modesto Board of Education, for a term of four years.
Steven Grenbeaux	Member, Modesto Board of Education, for a term of four years.

SECTION 4. The Charter provides that if no candidate for an elective office of the City receives a majority vote at a regular municipal election, a Second Regular Municipal Election shall be held by mail ballot at which the two candidates receiving the highest number of votes at the first election shall have their names on the ballot for election of the office, therefore, the two candidates receiving the highest number of votes for City Council Chair 1, Robert Farrace and Dave Lopez shall have their names on the ballot for a run-off election to be held on Tuesday, December 11, 2007.

SECTION 5. The following votes were cast for Measures I and J:

Measure	Total Votes For	Total Votes Against
Measure I: *Should Modesto change its system of electing City Councilmembers? Please answer the next measure, whether you voted "Yes" or "No" on this measure.*	10,489	7,868

Measure	Total Votes For
Measure J: *If the City of Modesto were to change its system of electing City Councilmembers, which of the following systems would you prefer? The Mayor would remain elected by all voters in the City under either option. (Choose only one)*	
(a) "By District": Six Districts where candidates must live in the District they wish to represent and the voters who live in the District vote on who will represent the District.	10,002
(b) "Mixed": Two At-Large Council seats, where candidates may live anywhere in the City and are voted on by all City voters; and Six Districts where candidates must live in the District they wish to represent, and the voters who live in the District vote on who will represent the District.	7,509

Measure I. More than a majority of all of the votes cast at the election for Measure I were in favor of said proposed Measure and said Measure did carry and was approved and were ratified by a majority of the qualified voters voting on said Measure.

Measures J (a). More than a majority of all the votes cast at the election for Measure J (a) were in favor of said proposed Measures, and said Measure J(a) did carry and was approved and were ratified by a majority of the qualified voters voting on said Measures.

Measures J (b) . Less than a majority of all of the votes cast at the election for Measure J(b) were in favor of said proposed Measure J(b), and said Measure J(b) did not carry, was not approved, and was not ratified by a majority of the qualified voters voting on said *Measure.*

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
Jean Morris, City Clerk

(Seal)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-688

A RESOLUTION ACCEPTING A CONTRIBUTION OF OVER $500,000 OF MATERIALS AND IN-KIND LABOR BY THE UNITED ROTARY CLUBS OF MODESTO, INC. FOR THE PROJECT TITLED "ROTARY CLUBS OF MODESTO CENTENNIAL JUNCTION PROJECT", ACCEPTING THE PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY CLERK RECORDER, AND NAMING THE QUARTER-MILE SECTION OF THE VIRGINIA CORRIDOR BETWEEN ROSEBURG AVENUE AND ORANGEBURG AVENUE THE "ROTARY CLUBS OF MODESTO CENTENNIAL JUNCTION" IN HONOR OF THE 100TH ANNIVERSARY OF THE ROTARY INTERNATIONAL ORGANIZATION

WHEREAS, in honor of the 100th anniversary of Rotary International, the five Modesto Rotary Clubs joined together to form the United Rotary Clubs of Modesto, Inc. and complete the installation of a quarter-mile section of the Virginia Corridor Trail between Roseburg and Orangeburg Avenues, and

WHEREAS, this segment is part of the larger 4.2-mile Virginia Corridor Trail project that will run between Pelandale Avenue and Needham Avenue along the original Tidewater Southern Railway Corridor, and

WHEREAS, the provision for this trail was established in a railbanking agreement entered into between the Union Pacific Railroad and the City of Modesto, and

WHEREAS, in 2005, the City of Modesto completed infrastructure work in preparation for the Rotary Clubs of Modesto Project, and

WHEREAS, the estimated value of the United Rotary Clubs of Modesto, Inc.'s generous contribution to the City is over $500,000, which includes a 10-foot wide asphalt trail with 2-foot shoulders, path lighting, landscaping, irrigation system, benches, tables, concrete plazas, rail fencing, entry features, site amenities and in-kind labor, and

WHEREAS, the 100 trees planted in this segment of trail symbolically represent the past 100 years of presidents of the Rotary Clubs, and

WHEREAS, the project was completed to the satisfaction of the Parks, Recreation and Neighborhoods Department and the Public Works Department on September 21, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts a contribution of over $500,000 of materials and in-kind labor by the United Rotary Clubs of Modesto, Inc. for the project titled "Rotary Clubs of Modesto Centennial Junction Project".

BE IT FURTHER RESOLVED that the Council hereby accepts the project as complete.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Clerk to file a Notice of Completion with the Stanislaus County Clerk Recorder.

BE IT FURTHER RESOLVED that the Council hereby names the quarter-mile section of the Virginia Corridor between Roseburg Avenue and Orangeburg Avenue the "Rotary Clubs of Modesto Centennial Junction" in honor of the 100th anniversary of the Rotary International organization.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-689

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF STEPHEN BONREPOS FROM THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, STEPHEN BONREPOS was appointed a member of the Citizens Advisory Committee on Recycling on July 3, 2007, and

WHEREAS, STEPHEN BONREPOS has tendered her resignation from the aforementioned committee, and

WHEREAS, STEPHEN BONREPOS has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of STEPHEN BONREPOS from the Citizens Advisory Committee on Recycling hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to STEPHEN BONREPOS for her outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-690

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF CHRISTINA TIPSWORD FROM THE COMMUNITY QUALITIES FORUM

WHEREAS, CHRISTINA TIPSWORD was appointed a member of the Community Qualities Forum on January 2, 2007, and

WHEREAS, CHRISTINA TIPSWORD has tendered her resignation from the aforementioned committee, and

WHEREAS, CHRISTINA TIPSWORD has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of CHRISTINA TIPSWORD from the Community Qualities Forum hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to CHRISTINA TIPSWORD for her outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-691

A RESOLUTION APPOINTING RON JESKE TO THE AIRPORT ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and recommended appointment of RON JESKE to the Airport Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. RON JESKE is hereby appointed to the Airport Advisory Committee with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Airport Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-692

A RESOLUTION APPOINTING JOHN BERGMAN TO THE BOARD OF ZONING ADJUSTMENT

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and recommended appointment of JOHN BERGMAN to the Board of Zoning Adjustment.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. JOHN BERGMAN is hereby appointed to the Board of Zoning Adjustment with a term expiration of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Board of Zoning Adjustment, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-693

A RESOLUTION APPOINTING SETH INGRAM TO THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and recommended appointment of SETH INGRAM to the Citizens Advisory Committee on Recycling.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. SETH INGRAM is hereby appointed to the Citizens Advisory Committee on Recycling with term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Citizens Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-694

A RESOLUTION APPOINTING AND ROBERT NUNES TO THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and recommended appointment of ROBERT NUNES to the Citizens Advisory Committee on Recycling.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. ROBERT NUNES is hereby appointed to the Citizens Advisory Committee on Recycling with term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Citizens Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-695

Print

A RESOLUTION APPOINTING CAROLINA BERNAL TO THE PLANNING COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and recommended appointment of CAROLINA BERNAL to the Planning Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. CAROLINA BERNAL, is hereby appointed to the Planning Commission with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Planning Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-696

A RESOLUTION REAPPOINTING JOHN SANDERS TO THE PLANNING COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and recommended reappointment of JOHN SANDERS to the Planning Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. JOHN SANDERS is hereby reappointed to the Planning Commission with a term expiration of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Planning Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-697

A RESOLUTION ACCEPTING CFD-FUNDED PUBLIC IMPROVEMENTS FOR THE STORM DRAIN AND ROAD IMPROVEMENTS RELATED TO THE VILLAGE CORNERS COMMERCIAL CENTER LOCATED IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, Peter and Charlene Reece, and Joseph and Sheryl Pimentel, and Stephen and Kathleen Hughes (collectively "DEVELOPERS"), are the developers of the Village Corners Commercial Center ("DEVELOPMENT"), and

WHEREAS, as a condition of the DEVELOPMENT, the DEVELOPERS were to construct 315 feet of roadway improvements on the south side of Sylvan Avenue at Claus Road and install 340 feet of storm drain line on the north side of Sylvan Avenue between Litt and Claus Roads ("PUBLIC IMPROVEMENTS"), located within the DEVELOPMENT, and

WHEREAS, said PUBLIC IMPROVEMENTS, included in the Acquisition and Shortfall Agreement ("AGREEMENT") between the City of Modesto Community Facilities District No. 2004-1 (Village One #2), a District created pursuant to the provision of the California Government Code Section 53311.5 et. seq. ("DISTRICT") and the DEVELOPERS, have been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Construction Administration Office of the Public Works Department and the CFD Administrator have verified that all required PUBLIC

IMPROVEMENTS for this commercial project have been satisfactorily completed and all inspection fees have been paid, and

WHEREAS, the Public Works Department will assume maintenance responsibilities upon acceptance of PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPERS have filed irrevocable bonds to secure faithful performance and payment for labor and materials both in the amount of $246,726.45 for said PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPERS have filed a warranty bond in the amount of $26,775.00 to guarantee the PUBLIC IMPROVEMENTS in the DEVELOPMENT, and

WHEREAS, the CFD Administrator has indicated that it would be in order for the City Council to accept said PUBLIC IMPROVEMENTS in said DEVELOPMENT as complete, and authorize the City Clerk to record a Notice of Completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The CFD-funded public improvements, which include construction of 315 feet of roadway improvements on the south side of Sylvan Avenue at Claus Road and the installation of 340 feet of storm drain line on the north side of Sylvan Avenue between Litt and Claus Roads are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2. The City Clerk is hereby authorized to release the bond for faithful performance in the amount of $246,726.45 immediately after

recordation of the Notice of Completion, provided no claim is made thereon.

3. The City Clerk is hereby authorized to release the bond for labor and materials in the amount of $246,726.45 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee development improvements in the amount of $26,755.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-698

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 budget have been adjusted as shown on the Budget Request form(s).

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-699

A RESOLUTION APPROVING AN APPLICATION FOR $1.8 MILLION IN FUNDING FROM THE 2008-2009 BICYCLE TRANSPORTATION ACCOUNT PROGRAM ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THE DEVELOPMENT OF PHASE 5 OF THE VIRGINIA CORRIDOR (PEDESTRIAN/BICYCLE BRIDGE OVER BRIGGSMORE AVENUE AND TRAIL NORTH TO WOODROW AVENUE), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the State of California has made funding available through the Department of Transportation's Bicycle Transportation Account for Fiscal Year 2008-2009, and

WHEREAS, development of the Virginia Corridor Project (the "Project") is consistent with the Bicycle Transportation Act of the State of California's Department of Transportation programs, and

WHEREAS, procedures established by the State of California's Department of Transportation require the applicant's governing body to certify by resolution the approval of the application before submission of said application to the State, and

WHEREAS, if selected, the applicant will enter into a contract with the State of California for the Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby:

1. Approves the filing of a grant application for $1.8 million from the State of California's Department of Transportation through the Bicycle Transportation Account for Fiscal Year 2008 -2009; and

2. Certifies that the applicant has or will have sufficient funds to operate and maintain the Project; and

3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and

4. Authorizes the City Manager, or his designee, as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-700

A RESOLUTION APPROVING A GRANT APPLICATION FOR $50,000 IN FUNDING FROM THE AMERICAN RIVERS-NOAA COMMUNITY-BASED RESTORATION PROGRAM PARTNERSHIP FOR THE ENGINEERING DESIGN WORK FOR THE REMOVAL OF DENNETT DAM WITHIN THE GATEWAY PROJECT OF THE TUOLUMNE RIVER REGIONAL PARK, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION DOCUMENTS

WHEREAS, the American Rivers Program, through its habitat restoration partnership with the NOAA Community-Based Restoration Program, provides funding for stream barrier removal projects benefiting diadromous fish species, and

WHEREAS, the program seeks to enable environmental and economic renewal in local communities, and

WHEREAS, the City of Modesto has a need to remove Dennett Dam from the Gateway Project within the Tuolumne River Regional Park, and

WHEREAS, the proposed engineering design work for the removal of Dennett Dam is consistent with the funding guidelines of the American Rivers-NOAA Community-Based Restoration Program Partnership,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

1. The filing of a grant application for $50,000 from the American Rivers-NOAA Community-Based Restoration Program Partnership is hereby approved.

2. The City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

RESOLUTION NO. 2007-701
NOT USED

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-702

A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE BY ITS HANDLER, OFFICER GRAVES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT WITH THE OFFICER FOR PURCHASE OF HIS POLICE CANINE

WHEREAS, the Police Chief for the City of Modesto, from time to time, officially retires police canines from departmental service, and

WHEREAS, City of Modesto police canine handler, Officer Graves, wishes to purchase and assume possession of his assigned canine, Eros, upon the dog's official retirement, and

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of City of Modesto police canines by its assigned department handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Officer Graves for the purchase of his retired police canine, Eros, in the amount of One Dollar ($1.00) as more fully set forth in the Modesto Police Department Canine Transfer Contract attached hereto as **Exhibit "A"** and incorporated herein by this reference.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT made and entered into in the City of Modesto, State of California, this **15th** day of **October, 2007**, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and Glenn Graves, canine handler for the Modesto Police Department, hereinafter referred to as "HANDLER".

Facts:

Canine "Eros" has been with the Modesto Police Department since ***July of 2001***. "Eros" has served the city for Five years. "Eros" was born in October of 1999 and will be nine years old in October of 2008. "Eros" has had a long and distinguished career as a police protection dog. "Eros" has reached an age where his health has begun to decline and he is slowing down. He has had major back surgery and other health issues. His ability to continue to do police work at an acceptable level is no longer there and it is my recommendation he be retired from service.

This **AGREEMENT** is made with regard to the following recitals:

A. *HANDLER* wishes to assume ownership and take possession of that certain retired City of Modesto police canine named "Eros". *HANDLER* was previously the assigned canine handler for "Eros".

B. *HANDLER* wishes to maintain ownership of the above-referenced dog, and the CITY wishes to divest itself of both ownership and vicarious or direct liability for the subject dog.

C. CITY does hereby agree to relinquish all of its right, title and ownership interest in said dog whatsoever, effective upon *HANDLER's* execution and return of this document and payment of the sum of one and no/100ths dollars ($1.00) to the City of Modesto.

NOW, THEREFORE, in consideration of this AGREEMENT, the parties hereto agree as

follows:

1. *HANDLER* does agree to assume ownership of the Modesto police canine named "Eros", and to assume any and all risks, including, but not limited to, risk of injury or death to third persons, and to hold CITY, its police department, and its employees and/or agents or volunteers harmless from any and all liability, claims, administrative proceedings or other responsibility whatsoever arising from any injuries or damages that may occur on or after the date ownership of the dog is transferred pursuant to this AGREEMENT. That date is hereby fixed by agreement by and among the parties hereto as being **October 15, 2007**.

2. *HANDLER* further agrees to assume all liability for risks and dangers relating to his/her ownership of the subject police dog on and after the aforementioned date, and to indemnify and hold CITY harmless in the event that any legal or administrative action, whether by claim, demand or otherwise, is made by any person or entity as a consequence of or arising out of any event, act or disturbance involving the subject police dog on or after the date ownership is transferred. These hold harmless provisions shall extend to any direct or vicarious liability arising from any and all losses, liabilities, charges (including reasonable attorney fees and court costs), and any other expenses whatsoever which may arise in any manner after the new owners assumption of ownership on the date identified herein.

3. *HANDLER* must retain ownership of "Eros" for at least eighteen (18) months prior to any sale of the aforementioned retired police canine.

4. The retired police canine "Eros" shall revert to CITY should the purchaser, *HANDLER* determine he/she can no longer care for the aforementioned dog within the period of time commencing on the date of this AGREEMENT and ending eighteen (18) months from the date fixed by this AGREEMENT.

5. *HANDLER* acknowledges that he/she has read the foregoing AGREEMENT and understands that it is contractual in nature and understands each of its provisions.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has caused this Agreement to be executed in duplicate by its City Manager and attested by its City Clerk under authority of Resolution No. 07-____ adopted by the City Council of the City of Modesto on the___ day of _____, 2007.

CITY OF MODESTO

_____
GEORGE BRITTON, City Manager

NEW OWNER

_____
GLENN GRAVES, Handler

ATTEST:

By_____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-703

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PROCUREMENT OF FOUR (4) DIESEL PARTICULATE FILTER SYSTEMS FOR 420E CATERPILLAR BACKHOES FROM HUSS, LLC OF PALM SPRINGS, CA FOR PUBLIC WORKS – FLEET SERVICES, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $60,000

WHEREAS, on June 12, 2007, the City Council, by Resolution No. 2007-346, approved the acceptance of a grant from the California Air Resources Board in the amount of $325,787 , and

WHEREAS, one of the terms of the grant is to install the Best Available Control Technology (BACT) to equipment purchased through the grant, and

WHEREAS, at the time of acceptance, it was expected that the manufacturer of backhoes would be capable of providing diesel particulate filter systems that would satisfy the grant requirement, and

WHEREAS, after several months the manufacturer has been unable to provide the required diesel particulate filter systems, and

WHEREAS, three diesel particulate filter systems are certified by the California Air Resources Board to fit 420E Caterpillar Backhoes, and

WHEREAS, the available technologies are from Cleaire Horizon, Huss, and Engine Control Systems, and

WHEREAS, Cleaire Horizon has not installed its filter systems on a 420E Backhoe and Engine Control Systems' technology requires a wall panel with electricity to regenerate its system, and

WHEREAS, the Huss diesel particulate filter system is deemed the only acceptable technology because it is the only fully self-contained system that will regenerate on the job site with no other infrastructure requirements, and

WHEREAS, the purchase of the diesel particulate filter systems with BACT are 100% refundable through the grant, and

WHEREAS, funds are budgeted in Account No. 7210-480-5814-5789 for this purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to conduct a sole source procurement of four (4) diesel particulate filter systems for 420E Caterpillar Backhoes from Huss, LLC of Palm Springs, CA for Public Works – Fleet Services.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for a total estimated cost of $60,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-704

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE PROJECT TITLED "EXTEND CORPORATE AND RECONSTRUCT TRANSIENT AIRCRAFT APRONS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,306,099.24

WHEREAS, a report has been filed by the Public Works Director that the project titled "Extend Corporate and Reconstruct Transient Aircraft Aprons" has been completed by George Reed, Inc., in accordance with the contract agreement dated August 9, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Extend Corporate and Reconstruct Transient Aircraft Aprons" is hereby accepted as complete from said contractor, George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $1,306,099.24 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-705

A RESOLUTION APPROVING A SECOND AMENDMENT TO THE AGREEMENT WITH CAROLLO ENGINEERS FOR ON-CALL ENGINEERING SERVICES REFLECTING THE REVISED SCOPE OF SERVICES FOR FY 2007-08 IN THE AMOUNT OF $78,000, FOR A TOTAL AMOUNT NOT TO EXCEED $122,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT

WHEREAS, on January 3, 2006, the City Council, by Resolution No. 2006-012, approved an on-call engineering services agreement with Carollo Engineers (Carollo) in the amount of $44,000 annually for wastewater-specific services, and

WHEREAS, on January 2, 2007, the City Council, by Resolution No. 2007-034, approved a First Amendment to the Agreement with Carollo Engineers revising the Scope of Services and increasing the amount to $114,000 for FY 2006-07 only, and

WHEREAS, the current on-call engineering services agreement amount for FY 2007-08 is $44,000, and

WHEREAS, Modesto's Wastewater Treatment Plant is rated as a Class V facility based upon its design flow of 70 million gallons per day, and

WHEREAS, the State of California requires that the Chief Plant Operator (CPO) be a Grade 5 operator as issued by the State Water Resources Control Board (SWRCB), and

WHEREAS, due to a recent departure of the Wastewater Treatment Plant Manager, the City was faced with the prospect of not having a Grade 5 operator as required by the permit to operate issued by the SWRCB, and

WHEREAS, failure to have a licensed Grade 5 operator could expose the City to administrative sanctions, including fines, and

WHEREAS, on October 11, 2007, Public Works – Engineering staff contracted with Carollo Engineers to provide CPO services under its current on-call engineering agreement as an

interim measure to ensure that the City was in compliance with the Grade 5 operator requirement, and

WHEREAS, Carollo's background in wastewater and water quality, combined with the fact that they were involved with both the Master Plan and the Rate Study, makes them qualified to perform CPO services on an interim basis, and

WHEREAS, staff has notified the SWRCB and Regional Water Quality Control Board (RWQCB) of the interim arrangement as is required under the permit, and

WHEREAS, Water Quality Control (WQC) currently has an on-call engineering services with Carollo for $44,000 annually, and

WHEREAS, the Second Amendment to the Agreement for WQC is to reflect the CPO Services through March 2008 at an additional cost of $78,000 for a total agreement amount of $122,000 for FY 2007-08, and

WHEREAS, the Second Amendment replaces the interim scope of services provided through the Engineering on-call engineering services agreement with Carollo, and

WHEREAS, staff has initiated the recruitment process to fill the vacated Grade 5 position, and with a shortage of Grade 5 operators throughout the state, it may take some time to fill the vacancy , and

WHEREAS, these contracted CPO services will allow time for recruitment of a Wastewater Treatment Plant Manager with the required Grade 5 Operator certification, and

WHEREAS, funds are budgeted in the amount of $78,000 from Account 6210-480-5213-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to the Agreement with Carollo Engineers for on-call engineering services reflecting the revised Scope of Services for FY 2007-08 in the amount of $78,000, for a total amount not to exceed $122,000.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Second Amendment to the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-706

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "LANDSCAPE IMPROVEMENTS FOR THE SYLVAN PEDESTRIAN OVERCROSSING," ACCEPTING THE BID AND APPROVING A $152,079.39 CONTRACT WITH ODYSSEY LANDSCAPE COMPANY, INC., FOR THE PROJECT TITLED, "LANDSCAPE IMPROVEMENTS FOR THE SYLVAN PEDESTRIAN OVERCROSSING," AND AUTHORIZING THE DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled "Landscape Improvements for the Sylvan Pedestrian Overcrossing" and City staff recommends approval by the City Council, and

WHEREAS, the bids received for "Landscape Improvements for the Sylvan Pedestrian Overcrossing" were opened at 11:00 a.m. on October 23, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $152,079.39 received from Odyssey Landscape Company, Inc., be accepted as the lowest responsible bid and the contract be awarded to Odyssey Landscape Company, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the project plans and specifications for the project titled "Landscape Improvements for the Sylvan Pedestrian Overcrossing," and accepts the bid of Odyssey Landscape Company, Inc., in the amount of $152,079.39, and hereby awards Odyssey Landscape Company, Inc., the contract titled "Landscape Improvements for the Sylvan Pedestrian Overcrossing."

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-707

A RESOLUTION ACCEPTING THE WORK BY AMERINE SYSTEMS, INC., FOR THE PROJECT TITLED "PUMP STATION FOR WELL 64 AT MCKINNEY COLONY PARK" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $963,627.85

WHEREAS, a report has been filed by the Public Works Director that the project titled "Pump Station for Well #64 at McKinney Colony Park" has been completed by Amerine Systems, Inc., in accordance with the contract agreement dated July 11, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Pump Station for Well #64 at McKinney Colony Park" is hereby accepted as complete from said contractor Amerine Systems, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $963,627.85, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-708

Print

A RESOLUTION CANCELING THE CONTRACT WITH GWINN CONSTRUCTION, INC., FOR THE PROJECT TITLED, "REMODEL OF EXISTING WATER QUALITY CONTROL LABORATORY."

WHEREAS, on February 13, 2007, by Resolution No. 2007-111, the Council accepted bids and authorized execution of a contract with Gwinn Construction, Inc., for construction of the "Remodel of Existing Water Quality Control Laboratory" project, and

WHEREAS, the contract was subsequently executed and a pre-construction conference was held, and

WHEREAS, the City of Modesto received a letter from Gwinn Construction dated October 12, 2007, requesting consideration for release from the contract due to significant delays, and

WHEREAS, after reviewing the project design and the Gwinn Construction contract, Public Works and the City Attorney's office recommends the contract be canceled, and

WHEREAS, Gwinn Construction agrees not to oppose the cancellation and has agreed to absorb all costs,

NOW, THEREFORE, BE IT RESOLVED by the Council that the contract with Gwinn Construction, Inc., for construction of the "Remodel of Existing Water Quality Control Laboratory" project is hereby canceled.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-709

A RESOLUTION AUTHORIZING THE PRUNED REFUSE COLLECTION PROGRAM BE MOVED FROM THE GENERAL FUND TO THE STORM DRAIN FUND, AND DIRECTING STAFF TO ADJUST EXPENSES TO PROVIDE FUNDING IN THE AMOUNT OF $600,000 THROUGH JUNE 30, 2008.

WHEREAS, City crews currently perform pruned refuse collection in the streets and alleys on a monthly basis at an annual cost of $1.2 million, and

WHEREAS, for FY 2007-08 Council approved funding for the pruned refuse collection program (PR Program) for only one-half of the year in anticipation of a staff proposal for permanent funding beginning in January 2008, and

WHEREAS, on August 4, 2007, staff presented a proposal to discontinue providing the collection services and to direct that pruned refuse be collected in green toters as part of the garbage service program, and

WHEREAS, Council rejected this proposal and made a motion to refer this item back to the Council Finance Committee to begin a Proposition 218 process, and

WHEREAS, based on Council's rejection of the proposal to stop the PR Program, it is necessary to identify $600,000 to fund the program for the remainder of the fiscal year ending June 30, 2008, and

WHEREAS, the Storm Drain Fund is the most logical funding source because the collection of pruned refuse is performed to protect the storm drain system from being overwhelmed by debris, and

WHEREAS, the Storm Drain Fund is seriously under-funded at this time, and

WHEREAS, in order to fund the $600,000 for the PR Program, cuts in the fund have been identified by primarily reducing the rockwell rejuvenation services that are performed by a contractor, and

WHEREAS, while no appreciable effect would be expected this winter season, there will be a decrease in rockwell performance in the future if this funding is not restored quickly, and

WHEREAS, the Finance Committee, at its October 22, 2007 meeting, recommended approval of the PR Program being moved from the General Fund to the Storm Drain Fund for the remainder of FY 2007-08 ending June 30, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Pruned Refuse Collection Program be moved from the General Fund to the Storm Drain Fund.

BE IT FURTHER RESOLVED that the Council hereby directs staff to adjust expenses to provide funding in the amount of $600,000 through June 30, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Ridenour was upon roll call carrier and the resolution adopted by the following vote:

AYES:	Councilmember:	Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	Dunbar, Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-710

A RESOLUTION GRANTING THE APPEAL OF JOHN LAING HOMES TO A PLANNING COMMISSION DECISION DENYING AN EXTENSION OF VESTING STATUS OF THE KODIAK VILLAGE II SUBDIVISION MAP PROPERTY LOCATED EAST OF OAKDALE ROAD AND SOUTH OF LA FORCE DRIVE

WHEREAS, the Planning Commission approved the Vesting Tentative Subdivision Map for Kodiak Village II on April 19, 2004, and

WHEREAS, the Kodiak Village II Final Map was recorded on May 12, 2005, and

WHEREAS, the rights conferred by the vesting Tentative Subdivision Map would have expired on May 12, 2007, and

WHEREAS, John Laing Homes filed an application for a one year time extension on the vesting status of the Kodiak Village II Subdivision Map on April 13, 2007, and

WHEREAS, Modesto Municipal Code Section 4-4.405(c) authorizes the Planning Commission to take action on proposed extensions of vesting status of tentative subdivision maps, and

WHEREAS, with the filing of this application the vesting status was placed "on hold" until the Planning Commission adopted a resolution, and

WHEREAS, the continued the Planning Commission hearing was held on September 17, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, at said public hearing the applicant's representative requested that the Planning Commission deny the request for a time extension in order to bring the item forward for City Council consideration, and

WHEREAS the Planning Commission, by Resolution No. 2007- 39 denied the request for the time extension, and

WHEREAS, an appeal to the Planning Commission's denial of an extension of vesting status of the Kodiak Village II Subdivision was filed with the Office of the City Clerk by George Petrulakis, on behalf of John Laing homes on September 28, 2007, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at 5:30 p.m. on November 27, 2007, at which time said public hearing was held and evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing the Council of the City of Modesto found and determined that the appeal of John Laing Homes to the decision of the Planning Commission should be granted and the decision of the Planning Commission should be overruled for the following reasons:

1. The City does not find that the approval of the time extension would create a health or safety risk to the community.

2. Furthermore, the Initial Study presented to the Planning Commission, which identified unmitigated water and wastewater cumulative impacts has since been updated to reflect the recently adopted Urban Water Management Plan and infrastructure improvements currently under construction. The City has the water and wastewater capacity to serve the development and there are no significant CEQA impacts. The City finds that the project conforms to the Village One Specific Plan Program EIR and is consistent with CEQA and State law.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of John Laing Homes to the decision of the Planning Commission denying the vesting status time extension for Kodiak Village II Subdivision Map, property located

east of Oaklade Road and south of La Force Drive is granted and the decision of the Planning Commission is hereby overruled for the reasons quoted above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Dunbar, Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007- 711

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR: ONE YEAR TIME EXTENSION OF VESTING STATUS OF KODIAK II SUBDIVISION MAP, PROPERTY LOCATED EAST OF OAKDALE ROAD AND SOUTH OF LA FORCE DRIVE, (JOHN LAING HOMES)

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One Final Environmental Impact Report ("EIR") (State Clearing House No. 90020181) is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, the Modesto City Council has adopted Resolution No. 94-297 which certified the Final Supplemental EIR for Village One; thus, the 1990 Village One Program EIR has been amended and updated by the 1994 Supplemental EIR, adopted by Resolution No. 94-297 on May 24, 1994, and

WHEREAS, on May 6, 2003, the City Council adopted Resolution No. 2003-223 which adopted an Addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan Update – May 2003 ("VI FMP "), and

WHEREAS, an appeal to the Planning Commission's denial of extension of vesting status of the Kodiak Village II Subdivision was filed with the Office of the City Clerk by the applicant's representative George Petrulakis, on October 2, 2007, and

WHEREAS, the City's Community & Economic Development Department reviewed the proposed Project to determine if said Project might have a significant effect on the environment, and

WHEREAS, City staff has prepared a Written Checklist, Environmental Assessment No. EA/C&ED 2007-26a, which concluded that the proposed Project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and the addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan, and

WHEREAS, by Resolution No. 2007-39 the Planning Commission denied the request for the time extension, property located east of Oakdale Road and south of LaForce Drive, and

WHEREAS, an appeal to the Planning Commission's decision was considered by the City Council at a duly noticed public hearing which was held on November 27, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2007-26a, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2007-26a For the Proposed One Year Time Extension of Vesting Status For the Kodiak II Subdivision Map", for the proposed project, and the Council hereby makes the following findings:

1. As per Sections 15168 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Program EIR, and no new environmental document or findings are required by CEQA, and

2. There are no substantial changes proposed in the project, which result in new significant environmental effects, or a substantial increase in the severity of previously identified significant effects and, there-fore, no major revisions to the Program EIR are required.

3. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and therefore, no major revisions to the Program EIR, are required.

4. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:

   a. One or more significant effects which is not discussed in the Program EIR; or,

   b. Significant effects which were previously examined will be substantially more severe than previously shown; or,

   c. Previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,

   d. Mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

5. The Written Checklist, Environmental Assessment No. EA/C&ED 2007-26a, provides the substantial evidence to support findings 1-4, noted above.

A copy of said Written Checklist, Environmental Assessment No. EA/C&ED 2007-26a, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2007-26a for the Proposed One Year Time Extension of Vesting Status For the Kodiak II Subdivision Map", is attached hereto as **Exhibit "A",** and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Dunbar, Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Determination:
Project is not within the Scope of the Village One Specific Plan Program Environmental Impact Report for Vesting Status Time Extension Kodiak Village II Subdivision Map

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: David Wage
209/577-5267

Prepared by:

David Wage, Planner
City of Modesto
Community & Economic Development Department
209/577-5267

November 15, 2007

WRITTEN CHECKLIST

EA/C&ED No. 2007-26a

I. PURPOSE

This written checklist, pursuant to CEQA Guidelines Section 15168 (C) (4), serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR. Based on a review of the project and Section 15162(a), this determination would permit the lead agency (City of Modesto) to approve the activity as being within the scope of the project covered by the Program EIR. This determination includes whether any new environmental document is required beyond the adopted Village One Specific Plan Program EIR (SCH# 90020181) for the proposed one year vesting status time extension for the Kodiak Village Subdivision (project).

The 1994 Supplemental EIR that amended and superseded the 1990 Program EIR is the document reviewed for projects within the Village One Specific Plan area. A summary of significant impacts and their mitigation measures from the 1994 Supplemental EIR is attached as Exhibit "A." Where appropriate those feasible mitigation measures developed in the Supplement to the program EIR shall be incorporated into the proposed project.

II. PROJECT INFORMATION

1. **Project Title:**	Vesting Status Time Extension- Kodiak Village II Subdivision
2. **Lead Agency Name and Address:**	City of Modesto
3. **Contact Person and Phone Number:**	David Wage, Assistant Planner Modesto Community & Economic Development Department 209/577-5267

4. **Project Location:** Oakdale Road and Laforce Drive

5. **Project Sponsor's Name and Address:** John Laing Homes
   304 Banner Court Suite 1
   Modesto, CA 95356

6. **General Plan Designation:** The General Plan land use designation for the project site is: Village Residential (VR).

7. **Zoning:** Specific Plan Overlay (SP-O)

8. **Description of Project:** Pursuant to Modesto Municipal Code Section 4-4.405(c), the applicant is requesting a one-year time extension for the vesting status of the Kodiak Village II Subdivision. The tentative map for a 61-lot subdivision was approved and effectively vested in April 2004. Once a vesting tentative map has been approved, that approval confers a vested right to proceed with the development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved (Modesto Municipal Code Section 4-4.405(b)). The subdivision is vested against substantial increases in Capital Facilities Fees (CFF), sewer, and water fee increases that are now in effect. Four of the 61 lots in the subdivision have been developed, while the remaining undeveloped lots are vested against current fees.

   The development rights conferred by a vesting map shall remain in effect for two years after recording of a Final Map. The Final Map was recorded on May 12, 2005, and under the City's subdivision regulations, the vesting status would have expired on May 12, 2007. The applicant's request to extend the vesting status for an additional year was submitted on April 13, 2007, which extends the vesting rights until the Planning Commission acts on the request.

9. **Surrounding Land Uses and Setting:** The Village One Specific Plan Area is over half built, as planned and approved by the 1990 Village One Specific Plan. The project area is bounded by Laforce Drive to the north, The Oakdale Road to the West, single-family homes to the east and south.

10. **Other Public Agencies whose Approval Is Required:** None.

III. DETERMINATION:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15168 (c) (4) the following is true for the proposed project:

1. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the 1994 Supplemental EIR are required.

2. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the 1994 Supplemental EIR are required.

3. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Village One Program EIR, as amended by the 1994 Supplemental EIR, was adopted which shows any of the following:

   a. one or more significant effects which is not discussed in the Village One Program EIR, as amended by the 1994 Supplemental EIR; or,

   b. significant effects which were previously examined will be substantially more severe than previously shown; or,

   c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or,

   d. mitigation measures or alternatives which are considerably different from those analyzed in the Village One Program EIR, as amended by the 1994 Supplemental EIR, would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

4. The Initial Study, Environmental Assessment No. EA/C&ED 2007-26a, provides the substantial evidence to support findings 3-5, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

_____

Project Manager Date

IV. PROJECT EVALUATION:

The following written Checklist based on Appendix G of the CEQA Guidelines serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15168 (c) (4) to determine whether the environmental effects of the operation were covered in the Program EIR.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
I.	**AESTHETICS.** Would the project:				
a.	Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☑
b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	☐	☐	☐	☑
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☑
d.	Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	☐	☐	☐	☑

Aesthetic and visual impacts are analyzed on pages III-100 through III-101 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that as the Specific Plan area is developed, it will eliminate views of the valley and the distant mountains from adjacent areas and reduce the area's visual open space. However, the program EIR found the effects of buildout of Village One on scenic vistas to be less than significant because views from the project area are minimal. The proposed vesting status time extension would not change the extent or nature of construction in the Specific Plan area, or cause any other changes in the project area. Impacts on scenic vistas would therefore remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that there are no scenic resources in the project area, and that development within the Specific Plan area would therefore not result in significant impacts on scenic resources. This finding would not be affected by the proposed vesting status time extension. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that the development within the Specific Plan area would have a less-than-significant impact on the visual character of the area. The proposed vesting status time extension would not change the design or layout of the development proposed within the Village One Specific Plan. It is called for by the Specific Plan. For this reason, impacts on the visual character of the area would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

d. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
II.	**AGRICULTURAL RESOURCES.** In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:				
a.	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☑
b.	Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?	☐	☐	☐	☑
c.	Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	☐	☐	☐	☑

Impacts on agricultural resources are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that land designated as Prime Farmland would be lost as a result of development in the Village One Specific Plan area. This impact was determined to be significant and not mitigable. The proposed vesting status time extension would not affect this finding because the project area would remain the same. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR presented information showing that any Williamson Act contracts in the Village One Specific Plan area would be automatically cancelled on annexation of the land to the City of Modesto, which has occurred, or would expire within 10 years of the time the original program EIR was prepared. The last Williamson Act contract covering land in the Village One Specific Plan area expired in 2001. There are no lands in the project area under Williamson Act contract. The Village One Specific Plan area has also been rezoned consistent with the specific plan, and no lands in the project area are now zoned for agricultural use. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR identified a potential land use conflict between new residential uses in the specific plan area and adjacent agricultural uses. Such conflicts can lead to conversion of adjacent farmlands to other uses. The program EIR proposed mitigation measures for this potential impact that would reduce the impact's significance, although the EIR noted that the mitigation measure might not fully mitigate the impact. No additional mitigation measures are available for this impact. This finding would not be affected by the proposed project because the project area and proposed land uses would remain the same. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
III.	**AIR QUALITY.** When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a.	Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☑
b.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
c.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☑
d.	Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☑
e.	Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☑

Impacts on air quality are analyzed on pages III-45 through III-54 of the 1994 Supplement.

Responses to Checklist Questions

a. / b. The Village One Specific Plan program EIR found that air pollution from project-related construction traffic and fireplaces & wood stoves in planned residential areas would violate air quality standards and contribute to an existing air quality violation. Construction traffic emissions would contribute to violation of the state and federal 8-hour carbon monoxide (CO) and particulate matter (PM10) standards and the federal ozone standard in the Modesto Urban Area and the San Joaquin Valley Air Basin. Urban traffic pollution would contribute to violations of the state ozone, CO, and PM10 standards in the Modesto Urban Area and San Joaquin Valley Air Basin. Residential pollution would contribute to violations of the pollutant standard index in the Modesto Urban Area. Partial mitigation for these impacts is included in the program EIR (Mitigation Measures 3–5), and the City of Modesto adopted a statement of overriding consideration for each impact. The proposed vesting status time extension would not change the amount of development and construction in the project area, so trips generated by the project would not be affected and the types of land uses would not change. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that air pollutant emissions associated with traffic at buildout of Village One would exacerbate the existing ozone, PM10, and CO violations in the Modesto area and cause a significant cumulative impact. Partial mitigation for these emissions is included in the program EIR (Mitigation Measures 4.5.3[a] and 4.5.3[b]), and the City of Modesto made a statement of overriding consideration for each impact. The proposed vesting status time extension would not change the amount of traffic associated with buildout of Village One or the types of land uses, so trips generated by the project would not be affected. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR found that PM10 generated during construction would aggravate the respiratory problems of people living and working nearby, therefore exposing sensitive receptors in the area to pollutant concentrations and causing a significant impact. However, the program EIR outlines mitigation measures that will be implemented to reduce the impact to an acceptable level (Mitigation Measure 40). The proposed vesting status time extension would not change the level of construction emissions. There would be no additional impact. No mitigation is required.

e. The proposed vesting status time extension would not create odors. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IV.	**BIOLOGICAL RESOURCES.** Would the project:				
a.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☑
b.	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☑
c.	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☑
d.	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☑
f.	Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☑

Impacts on biological resources are analyzed on pages III-68 through III-79 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the buildout could result in the loss of foraging habitat for Swainson's Hawk, a state-listed threatened species. The development of the project site would result in a less than significant impact to foraging habitat for Swainson's Hawk. Therefore, no mitigation is required.

b. The Village One Specific Plan program EIR did not find that any riparian habitat or other designated sensitive natural community was present in the project area, and so found that the project would have a less-than-significant impact. The proposed vesting status time extension would not change the boundaries of the Specific Plan area. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would result in the loss of lands that might be classified as wetlands by the U.S. Army Corps of Engineers, but that, with mitigation, the impact would be less than significant. The proposed vesting status time extension would not change the Specific Plan area boundaries or the areas that would be disturbed. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not identify any migratory corridors in the project area, nor did it find that the project would interfere with the movement of any species. The proposed vesting status time extension would not change the Specific Plan area boundaries. There would be no impact. No mitigation is required.

e. / f. No local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans apply to the Village One Specific Plan area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
V.	**CULTURAL RESOURCES.** Would the project:				
a.	Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	☐	☐	☐	☑
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	☐	☐	☐	☑
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☑
d.	Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☑

Responses to Checklist Questions

a.-d. Impacts on cultural resources resulting from the buildout of Village One (e.g., from construction of associated infrastructure) are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The report concluded that there are no known historic, archaeological, or paleontological resources in the Village One Specific Plan area. Based on the results of this report, (Cultural and Historic Resources Report, page 3) it was determined that the likelihood that the proposed abandonment would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. Development of the proposed project will not result in effects on scattered existing structures. A Cultural Resources Assessment was prepared to determine if any of these affected structures are considered historic resources. The Cultural Resources Assessment is attached to this document as Appendix A. No historic structures are located within the project area boundaries. Therefore, no mitigation measures are necessary.

Since no archaeological, or paleontological resources were found in the previous document to be located in the project area, and since the proposed project would not have a significant impact on historic structures, there would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VI.	**GEOLOGY AND SOILS.** Would the project:				
a.	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
	1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☑
	2. Strong seismic groundshaking?	☐	☐	☐	☑
	3. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☑
	4. Landslides?	☐	☐	☐	☑
b.	Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☑
c.	Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☑
d.	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☑
e.	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?	☐	☐	☐	☑

Impacts associated with geology and soils are analyzed on pages III-105 through III-108 of the 1994 Supplement.

Responses to Checklist Questions

a.-d. The program EIR, as supplemented, found that the project area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures were required. The proposed abandonment would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan included provisions for the project to be served by public sewers. No septic tanks or alternative wastewater systems were proposed. The proposed vesting status time extension would not change the proposed method of wastewater disposal. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
VII.	**HAZARDS AND HAZARDOUS MATERIALS.** Would the project:				
a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☑
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☑
c.	Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☑
d.	Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☑
e.	Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
f.	Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☑
h.	Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☑

Impacts associated with hazards and hazardous materials are analyzed on pages III-80 through III-94 and III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a.–c. The Village One Specific Plan does not allow any land uses that would use hazardous materials. The proposed vesting status time extension would not change land uses contemplated by the Specific Plan. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR, as supplemented, found no hazardous materials were stored at or near the project site. No significant impacts were identified, and no mitigation measures were required. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located to the east of the Village One Specific Plan area. However, take-offs and landings were found to take place parallel to and outside the Specific Plan area boundaries, and flight patterns are generally situated to the east of the Specific Plan area. There would be no additional impact. No mitigation is required.

g. Since the adoption of the Village One Specific Plan, the Modesto General Plan has been updated to include development of Village One consistent with the specific plan. City emergency plans are developed with the assumption that the Village One Specific Plan will be implemented. The proposed vesting status time extension would not change construction, land use, or other physical attributes of the Right-of-Way Acquisition. There would be no additional impact. No mitigation is required.

h. The project site is located in an area of the City of Modesto planned for buildout of an urban neighborhood. Approximately 50% of the project area remains undeveloped, with a covering of dry brush and vegetation. The potential for wildland fires is low, and this potential will decrease further as buildout continues. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VIII.	**HYDROLOGY AND WATER QUALITY.** Would the project:				
a.	Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☑
b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☑
c.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?	☐	☐	☐	☑
d.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
e.	Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☑
f.	Otherwise substantially degrade water quality?	☐	☐	☐	☑
g.	Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☑
h.	Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	☐	☐	☐	☑
i.	Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☑
j.	Contribute to inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☑

Impacts associated with hydrology are analyzed on pages III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR did not find that buildout of the plan would violate any water quality standards or waste discharge requirements. The proposed project is consistent with the Village One Specific Plan, so there would be no additional impacts. No mitigation is required.

b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area might interfere with local groundwater recharge. However, the impact was found to be less than significant because the Specific Plan area is not a major groundwater recharge area and it includes a recharge/discharge plan for disposal of stormwater runoff and recharge of groundwater. The proposed project would not change the amount of impervious surface in the Specific Plan area or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

c.–e. The Village One Specific Plan program EIR found that development will substantially alter the existing drainage pattern of the area but, because the project will incorporate an urban storm drain system, will not result in any erosion impacts. The proposed project would not change the amount of impervious surface or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

f. The Village One Specific Plan program EIR did not find that development would substantially degrade water quality. The proposed project would not change water use or discharge associated with the buildout of the Village One Specific Plan area. There would be no additional impact. No mitigation is required.

g.–i. According to the Village One Specific Plan program EIR, the project site is not situated in a 100-year flood hazard area or downstream from a levee or dam. There would be no impact. No mitigation is required.

j. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IX.	**LAND USE AND PLANNING.** Would the project:				
a.	Physically divide an established community?	☐	☐	☐	☑
b.	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☑
c.	Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☑

Impacts associated with land use and planning are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

a. The proposed project would not result in any physical changes to the environment beyond those described in the Village One Specific Plan. Village One would continue to be developed as a planned community; therefore, the project would not divide an established community. There would be no impact, and no mitigation is required.

b., c. The Village One Specific Plan has been adopted by the City of Modesto and has been incorporated into the Modesto General Plan. The proposed project would be consistent with the Village One Specific Plan. There are no other applicable land use or conservation plans for the project area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
X.	**MINERAL RESOURCES.** Would the project:				
a.	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☑
b.	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☑

Responses to Checklist Questions

a., b. No known mineral resources or important recovery sites are located in the Village One Specific Plan Area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
XI.	**NOISE.** Would the project:				
c.	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☑
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☑
e.	Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑

Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.

a., c. The Village One Specific Plan program EIR found that proposed residential housing in the project area would be exposed to noise levels exceeding general plan thresholds, but mitigation measures were incorporated to reduce the impact to a less-than-significant level. The proposed project would not change project-related noise-generating activities. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that the buildout of Village One would not expose people to, or generate excessive, groundborne vibration or groundborne noise levels. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR found that construction of the proposed project would result in a substantial temporary increase in ambient noise levels for residential housing. However, mitigation measures were incorporated into the program EIR to reduce the impact to a less-than-significant level. The proposed project would not change construction activities. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan program EIR found that the Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the Village One Specific Plan area. However, take-offs and landings take place parallel to and outside the Specific Plan boundaries, and flight patterns are generally situated east of the project area. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XII.	**POPULATION AND HOUSING.** Would the project:				
a.	Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	☐	☑
b.	Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
c.	Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑

Impacts on population and housing are analyzed on pages III-95 through III-99 of the 1994 Supplement.

Responses to Checklist Questions

a.–c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would not result in significant adverse impacts on population and housing units. No mitigation is required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XIII. PUBLIC SERVICES. Would the project:				
a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:				
Fire protection?	☐	☐	☐	☑
Police protection?	☐	☐	☐	☑
Schools?	☐	☐	☐	☑
Parks?	☐	☐	☐	☑
Other public facilities?	☐	☐	☐	☑

Impacts on public services are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the only significant impact that buildout of the Village One Specific Plan area would have on public services would be in the areas of fire protection and law enforcement. Mitigation measures were identified in the program EIR to reduce the level of this impact to a less-than-significant level. No other significant impacts on public services were identified. The proposed vesting status time extension would not change the provision of public services. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
XIV.	**RECREATION.** Would the project:				
a.	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☑
b.	Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☐	☑

Impacts on recreation are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a., b. No significant impacts on recreation were identified in the program EIR. The proposed project would not change the provision of parks and recreation facilities. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
XV.	**TRANSPORTATION/TRAFFIC.** Would the project:				
a.	Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	☐	☐	☐	☑
b.	Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☑
c.	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☑
d.	Substantially increase hazards because of a	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
	design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				
e.	Result in inadequate emergency access?	☐	☐	☐	☑
f.	Result in inadequate parking capacity?	☐	☐	☐	☑
g.	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☑

Impacts on transportation and traffic are analyzed on pages III-40 – III-44 of the 1994 Supplement.

Responses to Checklist Questions

a., b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system and would affect level of service at several intersections. Mitigation measures identified in the program EIR were identified to reduce impacts to a less-than-significant level for all intersections except the Briggsmore Avenue/Oakdale Avenue intersection. For that intersection, the impact was determined to be significant and not mitigable. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the 1994 Supplement. The proposed vesting status time extension would not alter traffic patterns in the Specific Plan area or result in additional trips. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR did not find that the buildout of the Village One Specific Plan area would result in a change in air traffic patterns. The proposed project does not include any elements that would affect air traffic patterns. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area included any hazardous design features or increased any incompatible uses for roads in the project area. Therefore, the vesting status time extension will have a less than significant effect on increasing hazards due to a design feature. No mitigation is required.

e. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate emergency access in the Specific Plan area. The Specific Plan includes provision of adequate roadways to serve the Village One development. Therefore, the impact on emergency service access is less than significant. No mitigation is required.

f. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate parking capacity in the Specific Plan area. There would be no impact. No mitigation is required.

g. The proposed project does not include any changes related to transportation policies, and would have no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVI.	**UTILITIES AND SERVICE SYSTEMS.** Would the project:				
a.	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☑
b.	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☑
c.	Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☑
d.	Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?	☐	☐	☐	☑
e.	Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☑
f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☑

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
g.	Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☑

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a.,e. The Village One Master EIR indicates the occurrence of a significant impact if existing sewage treatment facilities cannot serve the projected demand from the proposed project. The Deficiencies in the existing system were identified based on the findings of the Collection System Master Plan Update and the Wastewater Treatment Master Plan Update, both adopted in 2007. Currently, the City is installing a Dissolved Air Floatation Unit (D.A.F.) unit to address existing deficiencies. It is anticipated the D.A.F. unit will be operational by mid-2008 and provide sufficient treatment capacity to serve near-term development citywide. The City is also currently designing treatment and disposal capacity upgrades to its treatment facility, which is expected to be online by late 2009. Therefore, the build out of the Kodiak Subdivision will not result in significant CEQA wastewater impact.

b. The approval would not create any project specific impacts that would require the construction of additional water or wastewater infrastructure. The project would contribute to a cumulative impact that increases the demand for additional infrastructure; however, the City's water and wastewater plans have identified future improvements that will be needed development. Future infrastructure improvements and their potential environmental impacts are addressed in separate environmental documents. This development will not result is project specific effects that create the need for additional infrastructure.

c. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed in order to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on stormwater drainage facilities. An update to the Storm Drainage Master Plan has been prepared and is under consideration by the City. An addendum to the Village One program EIR for the Storm Drainage Master Plan has also been prepared and is under consideration by the City. The project would not result in any additional impacts or the need for any additional mitigation beyond that assessed in the Addendum to the Village One Program EIR for the Storm Drainage Master Plan.

d. The City's recent Urban Water Management Plan (UWMP) analyzed both existing ground water sources and surface water supplies. The infrastructure deficiencies identified in the previous Urban Water Management Plan have been addressed through new information about existing water sources and the addition

of infrastructure and an additional water source. Using empirical data, the recent UWMP estimated its existing ground water sources are able to produce operational yield of 53,500 acre-feet per year while previous studies only estimated a yield of 50,000 acre-feet per year. In addition, the City has established an assured long-term water supply by entering into a revised Treatment and Delivery Agreement (TDA) with MID to expand the Modesto Regional Water Treat Plant (MRWTP), which will become operational in late 2009 or early 2010. Therefore, based on updated information included in the recently adopted UWMP, the build out of the Kodiak Subdivision will not result in a significant CEQA water supply impact.

f., g. The Village One Specific Plan program EIR found that the area's landfills have sufficient permitted capacity to accommodate the project's solid waste disposal needs. The proposed project would not result in any physical changes in the environment or the generation of any additional solid waste. There would be no impact. No mitigation is required.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE.

a.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☑
b.	Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☑	☐
c.	Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☑

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

Responses to Checklist Questions

a. As described above, the proposed project would not result in any significant impacts on the environment over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

b. As discussed in Section XVI(b) above, the proposed project would result in a less that significant cumulative impact on City water and wastewater infrastructure. The development would result in the need for additional infrastructure above and beyond what has been anticipated in the City's water and wastewater plans. (see "Responses to Checklist Questions XVI 'Utilities and Service Systems' a,e,d on page 25).

c. As described above, the proposed project would not result in any significant impacts affecting humans over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

V. MITIGATION APPLIED TO PROJECT

The following mitigation measures developed in the 1994 Village One Specific Plan Supplement to the Program EIR are appropriate to the project and will be incorporated into the project. Therefore, the environmental effects of the project were covered by the program EIR, except for the effects relating to water supply and wastewater treatment as described in Sections XVI and XVII of Part IV above.

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/ suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

2. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

3. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

4. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

5. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

6. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

7. The developer shall implement measures to prevent carryout or trackout that may otherwise occur in conjunction with construction activities.

8. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

   The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

a. A hammer or any other device or implement used to pound or strike an object.

b. An impact wrench or other tool or equipment powered by compressed air.

c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

9. If archeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the MEIR.

10. The developer shall implement pre- and post-construction best management practices (BMP) to minimize pollutants entering the storm system.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-712

A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 70-1063 ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PREZONED DEVELOPMENT ZONE, P-PD(82), (WESTLAND INVESTMENT COMPANY)." (HENSLEY PROPERTIES, LP)

WHEREAS, the Modesto City Council, by Ordinance No. 1057-C.S., which became effective on December 23, 1970, granted Planned Development Zone, P-D(82), to allow Medium Density Residential Zone, R-2, uses on property located on the south side of Haddon Avenue, northwest of Capistrano Drive, and

Whereas, City Council Resolution No. 70-1063 adopted by the City Council on October 26, 1970, approved the development plan for Planned Development Zone, P-D(82), and contained the conditions of approval thereof, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(82) was filed by Hensley Properties LP on January 29, 2007, to allow the conversion of existing rental units into 73 for-sale air-space condominiums, property located on the south side of Haddon Avenue, northwest of Capistrano Drive, and

WHEREAS, after a public hearing held on September 17, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-42, that the amendment to Planned Development Zone P-D(82), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed amendment is consistent with the Modesto Urban Area General Plan, because the use is consistent with the Mixed-Use (MU), designation for the site.

2. The proposed Planned Development Zone Amendment will be compatible with the surrounding residential land uses.

WHEREAS, said matter was set for a public hearing of the City Council to be held on November 7, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Hensley Properties, LP for an amendment to Planned Development Zone, P-D(82) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-42 and quoted above, and

WHEREAS, the City Council has introduced Ordinance No. 3467-C.S. on the 27th day of November, 2007, amending Section 2 of Ordinance No. 1057-C.S., to allow the conversion of existing rental units into 73 for-sale air-space condominiums,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 and 2 of Resolution No. 70-1063 entitled "A Resolution Approving a Development Plan For Prezoned Development Zone, P-PD(82), (Westland Investment Company)." are hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(82), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan titled "Capistrano Park No. III" as amended in red, stamped approved by the City Council.

2. All conditions of City Council Resolution No. 70-1063, not in conflict with this action shall remain in full force and effect.

3. Improvement Plans for any required improvements shall be prepared by a registered Civil Engineer and submitted for approval by the City Engineer or designee. All improvements shall be constructed in accordance with the approved plans.

4. Prior to the issuance of a building permit, a landscaping and irrigation plan for any new landscaping shall be approved by the Parks, Recreation and Neighborhood Director or designee. Proposed Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

5. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

6. Electric facilities and overhead lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities shall be granted as required. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules. Costs for relocation and/or undergrounding the District's facilities at the request of others will be borne by the requesting party.

7. Prior to recordation of a subdivision map, the owner shall secure a fire hydrant on the southwest corner of San Ignacio Ave. and Haddon Ave. and a second hydrant on southwest corner of Capistrano Drive and Haddon Ave, to the satisfaction of the Fire Chief and the City Engineer.

8. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

9. Prior to City Council approval of a final subdivision map the subdivider shall submit for approval by the City Attorney the articles of incorporation and bylaws, as well as all covenants, conditions, and restrictions which are to be recorded to create a Homeowner's Association (HOA) which shall guarantee continued maintenance of common facilities in the development including: the front yards of each unit. The Articles of Incorporation shall be filed with the Secretary of State prior to recordation of the final subdivision map. The covenants, conditions and restrictions shall be recorded prior to or concurrently with the final subdivision map.

10. The covenants, conditions and restrictions pertaining to the development shall provide, among other things, that utility service equipment and facilities may be installed on or through dwelling units to serve other dwelling units in the project as required by utility companies serving the project, and that said utility companies shall have a right of access to all lots and buildings where necessary to perform necessary maintenance and repair.

11. Prior to the recordation of a final map the subdivider shall secure certification by the Chief Building Official that all construction conforms to all building and fire safety standards for condominiums established by the Chief Building Official.

12. Provisions for water and sanitary sewer services to individual units shall be made in a manner to be approved by the City Engineer or designee. Maintenance of all sanitary sewers outside of the street right-of-way shall be by the HOA.

13. The public utility easements, including a blanket easement over the common area, as required by the utility companies serving the project shall be dedicated by the final map.

14. Prior to sale of a condominium unit, a subdivision map shall be recorded.

15. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

16. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/ suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

17. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

18. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

19. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

20. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

21. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

22. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

23. Suspend excavation and grading activity when winds exceed 20 mph.

24. Limit the area subject to excavation, grading and other construction activity at any one time.

25. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

    The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

    a. A hammer or any other device or implement used to pound or strike an object.

b. An impact wrench or other tool or equipment powered by compressed air.

c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

26. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K."

"SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(82):

The entire construction program shall be accomplished in one phase, construction to begin on or before two years after the date of City Council approval and completion to be not later than three years after the date of City Council approval."

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Dunbar, Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2007-713

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(82), PROPERTY LOCATED ON SOUTH OF HADDON AVENUE, NORTHWEST OF CAPISTRANO DRIVE TO ALLOW THE CONVERSION OF EXISTING RENTAL UNITS INTO 73 FOR-SALE AIR-SPACE CONDOMINIUMS (HENSLEY PROPERTIES, LP)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Hensley Properties, LP has proposed an amendment to Planned Development Zone, P-D(82) to allow the conversion of existing rental units into 73 for-sale air-space condominiums, on the property located south of Haddon Avenue, northwest of Capistrano Drive, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master Environmental Impact Report and whether the subsequent project was described in the Master Environmental Impact Report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2007-14 ("Initial Study") reviewed the proposed amendment to P-D(82) to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and

will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines begininning on October 12, 2007 the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on November 7, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to P-D(82), a copy of which is attached hereto as **Exhibit "A",** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Dunbar, Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2007-14

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2007-14)

For the proposed:

Planned Development Amendment and Tentative Subdivision Map
P-PDA-07-002 & P-TSM-07-002

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

March 26, 2007

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: P-D(82) Amendment & Tentative Subdivision Map – Condo Conversion

B. Address or Location: South side of Haddon Avenue, west of Capistrano Drive

C. Applicant: Hensley Properties, LP, 821 13th Street, Modesto CA 95354

D. City Contact Person: Robert S. Cannell

Project Manager:	Robert S. Cannell
Department:	Community and Economic Development Department
Phone Number:	(209) 577-5267
E-mail address:	bcannell@modestogov.com

E. Current General Plan Designations: "R" Residential Land Use; and "MU" Mixed Use

F. Current Zoning Classification: Planned Development Zone, P-D(82)

G. Surrounding Land Uses:

North:	P-D(69) Single Family Attached and Multi-Family Dwellings (R-3 Zone Property)
South:	Undeveloped (R-2 & R-3 Zone Property)
East:	R-1, R-2, Undeveloped and Single-Family
West:	P-D(106) Single Family Attached

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The 6.02-acre project site was annexed to the City on January 21, 1971, as part of Riverside No. 4 Addition. The application involves both an amendment to the existing Planned Development Zone, P-D(82) and a Subdivision Map. The proposal consists of converting the individual duplex, triplex, and fourplex units into condominiums. The existing property consists of 31 lots each served by a public street and each lot containing one duplex, triplex, or fourplex. All of the total 73 dwelling units will be converted. The existing complex will not be expanded, modified, and no new facilities/ units will be added. No changes will occur to the previously approved site plan. The applicant does propose to do improvements to the interior of the existing units as required by the building code.

I. Other Public Agencies Whose Approval is Required:

None.

IIII. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ____ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.____ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Robert H. Cannell	Senior Planner	March 26, 2007
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X ☐

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X ☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

DISCUSSION:
This is an application to convert existing units to condominiums. The conversion is compatible with the existing surrounding residential development located in this neighborhood. Because the project is consistent with the surrounding uses, the proposed project will not change to a level that will cause a change to the existing road capacities or levels of service.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project.*

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	YES	NO
(1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.	☐	X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

		YES	NO
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and have no comments pertaining to the project::

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) There is no parking requirements associated with a subdivision map. However, future development on the subdivision will be required to provide parking in accordance with City Standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a subdivision of property. PM10 emissions created through any remedial construction will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

DISCUSSION:
The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project is an infill development and the surrounding properties are located within a fully developed urbanized area.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions;

regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant.*

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. *This cumulative impact is considered significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "MU" (Mixed Use) designations in both land use and intensity.

(2) The project does not propose to increase the impervious surface, the residential development already exists. The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "MU" (Mixed Use) designations in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project. It is not near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "MU" (Mixed Use) designations in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "MU" (Mixed Use) designations in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "MU" (Mixed Use) designations in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "MU" (Mixed Use) designations in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "MU" (Mixed Use) designations in both land use and intensity.

(2) This is an infill project, which involves the an existing residential project to be converted to residential condominiums. No hazardous materials will be involved with this project.

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "MU" (Mixed Use) designations in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) and "MU" (Mixed Use) designations in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is an infill project that will act to connect an existing community rather than divide one.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The development is already existing.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

Noise Measures:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

   The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

   A. A hammer, or any other device or implement used to pound or strike an object.

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.

   D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

   E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

   F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

   G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

   H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

N/A

Storm Drainage Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-714

A RESOLUTION APPROVING AN AGREEMENT WITH THE GILLIG CORPORATION FOR THE PURCHASE OF FIVE (5) TRANSIT BUSES AND SPARE COMPONENTS FOR A TOTAL COST OF $1,986,127, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City desires to purchase five (5) transit buses to provide new service to northwest Modesto and Gregori High School, and

WHEREAS, the City is utilizing the Hillsborough Area Regional Transit (HART) competitive bid process to purchase said buses from the Gillig Corporation, and

WHEREAS, the Gillig Corporation provided the City with a quote based on the bid price the Gillig Corporation submitted to HART, and

WHEREAS, the Gillig Corporation has quoted the following total price F.O.B. Modesto, including state and local sales taxes: One Million, Nine Hundred Eighty-Six Thousand, One Hundred Twenty-Seven and No One-Hundredths Dollars ($1,986,127.00), and

WHEREAS, by an agenda report to the City Council dated November 8, 2007, from the Public Works Director, City staff recommended to the Council that said buses be purchased from the Gillig Corporation at the quoted price,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Gillig Corporation for the purchase of five transit buses for a total cost of $1,986,127.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Dunbar, Hawn

ATTEST: Jean Morris
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-715

A RESOLUTION AMENDING THE CURRENT FY 2007-2008 CAPITAL IMPROVEMENT PROGRAM REVENUE BUDGET FOR PROJECT 6510-165-J401 (BUS PURCHASES).

WHEREAS, the City wishes to purchase five (5) transit buses to provide new service in Modesto, and

WHEREAS, the FY2007-2008 CIP Budget for 6510-165-J401 requires amending to fund this project, and

WHEREAS, funds in the amount of $301,000 need to be transferred from account 1420 (Public Transportation Capital Facility Fund) to account 6510-700-J401-9142 to be appropriated for the Bus Purchases, and

WHEREAS, budget revenue needs to be increased by $558,905 in account 6510-165-J401-3159 (Local Transportation Funds Prior Year), and

WHEREAS, budget revenue needs to be decreased by $599,923 in account 6510-165-J401-3158 (Local Transportation Fund Current Year), and

WHEREAS, budget revenue needs to be decreased by $496,190 in account 6510-165-J401-3161 (STAF Transit Operating Grant), and

WHEREAS, an appropriation of $236,208 is needed from Fund 6510 (Fund Reserves) to fund the purchase of five (5) buses.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the following budget adjustments to fully fund the bus purchases: (a) transfer $301,000 from account 1420 (Transit Capital Facility Fee Fund) to account 6510-700-J401-9142, (b) increase budget revenue by $558,905 in account 6510-165-J401-3159 (Local Transportation Funds Prior Year), (c) decrease budget revenue by

$599,923 in account 6510-165-J401-3158 (Local Transportation Fund Current Year), (d) decrease budget revenue by $496,190 in account 6510-165-J401-3161 (STAF Transit Operating Grant), and (e) authorize the appropriation of $236,208 from Fund 6510 Fund Reserves.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007 by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Dunbar, Hawn

ATTEST: Jean Morris
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: SAWood
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-716

A RESOLUTION APPOINTING ASSISTANT CITY CLERK STEPHANIE LOPEZ AS ACTING CITY CLERK/AUDITOR EFFECTIVE DECEMBER 13, 2007, AND AUTHORIZING A MONTHLY SALARY OF $7,262.72

BE IT RESOLVED by the Council of the City of Modesto that Stephanie Lopez, Assistant City Clerk, is hereby appointed Acting City Clerk/Auditor, effective December 13, 2007.

BE IT FURTHER RESOLVED that Ms. Lopez shall receive a monthly salary of $7,262.72 and a monthly vehicle allowance of $400 during the term of said acting assignment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-717

A RESOLUTION APPROVING AN EXTENSION OF THE SERVICE AGREEMENT WITH BERTOLOTTI MODESTO DISPOSAL, INC., AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A LETTER AMENDMENT TO THE SERVICE AGREEMENT PROVIDING FOR AN AUTOMATIC ONE-YEAR EXTENSION OF THE SERVICE AGREEMENT ON EACH ANNIVERSARY OF THE AGREEMENT

WHEREAS, on September 18, 2001, the City Council authorized the execution of a Service Agreement with Bertolotti Modesto Disposal, Inc., and

WHEREAS, this Service Agreement gave Bertolotti the exclusive right to collect commercial/residential garbage/recyclables and containerized yard waste within the Service Area shown on the map on file at that time with the City Clerk, and

WHEREAS, this map allocated approximately 20% of Modesto's commercial and residential customers to Bertolotti, and

WHEREAS, the Service Agreement also gave Bertolotti a non-exclusive right to collect industrial garbage, salvageable waste, and recyclable materials within the City, and

WHEREAS, the term of this Service Agreement with Bertolotti was for seven (7) years, through September 18, 2008, and

WHEREAS, Bertolotti had the option to request an extension of the Service Agreement upon the successful completion of two years of service and every two years thereafter, and

WHEREAS, on November 13, 2003, the Council extended Bertolotti's Service Agreement for an additional two years, through September 18, 2010, and

WHEREAS, Bertolotti was in the process of preparing another extension request in 2006, when Waste Management announced that they were no longer interested in providing service in the City of Modesto and the Council decided to reapportion Waste Management's former Service Area to Gilton Solid Waste and Bertolotti Modesto Disposal, and

WHEREAS, due to the revision of the Service Area map and pressing issues related to the transition of approximately 28,000 residential and 1,700 commercial customers, as well as the need to determine whether or not the transition would be successful, the extension request was postponed by mutual agreement between staff and Bertolotti, and

WHEREAS, the transition has been successfully completed and Bertolotti has demonstrated to staff's satisfaction that they are able to provide the level and quality of service expected by the City in their expanded Service Area, and has fully cooperated with the City in all public education and other solid waste program efforts, and

WHEREAS, on September 21, 2007, staff received a letter from Bertolotti Modesto Disposal requesting an extension of the Service Agreement through 2014, bringing the term of their Agreement back to the original 7 years granted in 2001, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and supported approving an Extension of the Service Agreement with Bertolotti Modesto Disposal, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Extension of the Service Agreement with Bertolotti Modesto Disposal, Inc

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a letter amendment to the Service Agreement providing for an automatic one-year extension of the Service Agreement on each anniversary of the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-718

A RESOLUTION APPROVING AN AGREEMENT WITH BIGGS CARDOSA ASSOCIATES, INC., FOR THE PREPARATION OF DESIGN DEVELOPMENT AND CONTRACT DOCUMENTS FOR THE VIRGINIA CORRIDOR PHASE V PROJECT, IN AN AMOUNT NOT TO EXCEED $540,475 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Virginia Corridor Trailway (the "Project") is a conversion of the original Tidewater Southern/Union Pacific Railroad corridor to a class one bicycle and pedestrian trail in Modesto, California, and

WHEREAS, the Project is being constructed under a rails-to-trails agreement with Union Pacific Railroad, and

WHEREAS, the trail runs from College Avenue with a connection to downtown Modesto to the south, to Pelandale Avenue to the north (approximately 4.2 miles), and

WHEREAS, the Project consists of a 10' wide pathway flanked by landscaping, benches, lighting, and site amenities, and

WHEREAS, the work to be accomplished in Phase V of the Project consists of preparation of Design Development and Construction Plans, Specifications and Engineering for the Project between Granger Avenue and Bowen Avenue, including the Briggsmore Avenue Overcrossing, and

WHEREAS, future elements of Phase V will include site preparation, grading, drainage, irrigation, utilities, landscaping, trail, lighting, signage, site amenities, bike/pedestrian bridge, and relocation of MID and other utility lines, and

WHEREAS, also included will be construction administration assistance by the consultant, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, a Request for Proposals was sent on August 22, 2007, to approximately one hundred sixty (160) engineering firms, including local companies, of which four responded, and

WHEREAS, proposals were evaluated by staff from the Parks, Recreation and Neighborhoods and Public Works Departments, and

WHEREAS, all four firms were interviewed by City staff on October 10, 11 and 12, with Biggs Cardosa Associates, Inc. selected as the most qualified firm, and

WHEREAS, City staff recommends that an Agreement with the firm of Biggs Cardosa Associates, Inc. be approved to perform the preparation of Design Development and Construction Plans, Specifications and Engineering for the Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Agreement with Biggs Cardosa Associates, Inc., for the preparation of Design Development and Contract Documents for the Virginia Corridor Phase V Project, in an amount not to exceed $540,475.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-719

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM TO ESTABLISH A NEW SECONDARY CIP, P365, VIRGINIA CORRIDOR PHASE V AND ALLOCATING $3,500,000 IN FUNDING TO THE PROJECT

WHEREAS, the Virginia Corridor Trailway (the "Project") is a conversion of the original Tidewater Southern/Union Pacific Railroad corridor to a class one bicycle and pedestrian trail in Modesto, California, and

WHEREAS, the Project is being constructed under a rails-to-trails agreement with Union Pacific Railroad, and

WHEREAS, the trail runs from College Avenue with a connection to downtown Modesto to the south, to Pelandale Avenue to the north (approximately 4.2 miles), and

WHEREAS, the Project consists of a 10' wide pathway flanked by landscaping, benches, lighting, and site amenities, and

WHEREAS, the work to be accomplished in Phase V of the Project consists of preparation of Design Development and Construction Plans, Specifications and Engineering for the Virginia Corridor Trailway between Granger Avenue and Bowen Avenue, including the Briggsmore Avenue Overcrossing, and

WHEREAS, future elements of Phase V will include, site preparation, grading, drainage, irrigation, utilities, landscaping, trail, lighting, signage, site amenities, bike/pedestrian bridge, and relocation of MID and other utility lines, and

WHEREAS, staff desires to establish a Capital Improvement Project for Phase V of the Virginia Corridor Trailway, and

WHEREAS, revenue in the amount of $500,000 from Congestion Mitigation Air Quality Funds and $3,000,000 in Federal Highway Administration funds is available in the primary project A087, Virginia Corridor, for this phase of the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the current Capital Improvement Program to establish a new Secondary CIP, P365, Virginia Corridor Phase V and allocating $3,500,000 in funding to the project.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-720

A RESOLUTION APROVING AN AGREEMENT WITH STANISLAUS COUNTY, BEHAVIORAL HEALTH AND RECOVERY SERVICES (BHRS), IN THE AMOUNT OF $41,500, TO PROVIDE PARTY PATROL POLICE OFFICERS AND CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR THE CITY OF MODESTO AND STANISLAUS COUNTY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Stanislaus County, Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, the Modesto Police Department has developed a first-time offender juvenile alcohol education, prevention and intervention program, and,

WHEREAS, minors contacted by the Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to educate minors and parents of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since Party Patrol was established, and

WHEREAS, the Modesto Police Department will also provide a marketing campaign, including placing ads in newspapers, yearbooks, as well as produce posters to educate youth about the harmful effects of alcohol, and

WHEREAS, the Modesto Police Department will prepare reports on enforcement actions taken related to juvenile alcohol consumption offenses, and

WHEREAS, the term of this agreement is October 1, 2007, through June 30, 2008, and

WHEREAS, the City shall be compensated $41,500 for the services of Party Patrol Police Officers and to conduct juvenile alcohol education, prevention and intervention program, and

WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Stanislaus County, Behavioral Health and Recovery Services (BHRS) in the amount of $41,500 to provide Party Patrol Police Officers and conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2007-721

A RESOLUTION AMENDING THE FISCAL YEAR 2007/2008 OPERATING BUDGET, ESTIMATING REVENUE OF $41,500, AND APPROPRIATING FUNDS FOR OVERTIME PARTY PATROL OFFICERS AND PROGRAM COSTS

WHEREAS, Stanislaus County, Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, minors contacted by Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to educate minors and parents of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since Party Patrol was established, and

WHEREAS, the term of this agreement is October 1, 2007, through June 30, 2008 and

WHEREAS, the City shall be compensated $41,500 for the services of overtime Party Patrol Police Officers and to conduct juvenile alcohol education, prevention and intervention program, and

WHEREAS, the 2007/2008 Operating Budget will be amended as indicated:

	Expense:		
To:	0420-190-2093-0130	$41,500	Officers' Overtime Hours Cost
	Revenue:		
To:	0420-190-2093-3730	$41,500	School/County Contribution

WHEREAS, due to the contract date, this should be set up as a multi-year appropriation.

WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of that it hereby approves the agreement with Stanislaus County, Behavioral Health and Recovery Services (BHRS) in the amount of $41,500 for the provision of Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program for the City of Modesto and Stanislaus County.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-722

A RESOLUTION APPROVING THE PROTECTED-PERMISSIVE TRAFFIC SIGNALS REPORT FOR 2007

WHEREAS, the City has protected-permissive traffic signal phasing at 47 intersections, and

WHEREAS, based on staff's periodic evaluations, staff has determined that protected-permissive phasing is very effective at most locations in town, and

WHEREAS, protected-permissive phasing provides more important non-tangible benefits, such as, reduced driver anxiety and a second chance to turn left during the same cycle, and

WHEREAS, overall, staff recommends continuing the use of protected-permissive phasing at appropriate locations and monitoring these installations for improvement and/or modifications based on periodic technical analysis, and

WHEREAS, after reviewing the data presented in the attached evaluation, staff made minor adjustments to the amber and all-red timing and protected-permissive signs at Sisk Road and Target Center Drive, and

WHEREAS, the Safety & Communities Committee at its December 3, 2007, meeting reviewed this report and authorized its presentation to the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Protected-Permissive Traffic Signals report for 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-723

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE PROJECT TITLED "CALIFORNIA AVENUE IMPROVEMENTS - MARK TWAIN JUNIOR HIGH SCHOOL SAFE ROUTE TO SCHOOL" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $150,986.70

WHEREAS, a report has been filed by the Public Works Director that the project titled "California Avenue Improvements- Mark Twain JHS Safe Route to School" has been completed by George Reed, Inc., in accordance with the contract agreement dated September 5, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "California Avenue Improvements- Mark Twain JHS Safe Route to School" is hereby accepted as complete from said contractor George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $150,986.70, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-724

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE PROJECT ENTITLED "2007 CAPE SEALS" FROM 10 PERCENT ($59,167.92) TO 11 PERCENT ($65,676.39) OF THE ORIGINAL CONTRACT PRICE WITH INTERMOUNTAIN SLURRY SEAL, INC.

WHEREAS, on April 3, 2007, by Resolution No. 2007-214, the City Council awarded a $591,679.16 contract to Intermountain Slurry Seal, Inc., to construct the "2007 Cape Seals" project, and

WHEREAS, the contractor started work on May 14, 2007, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the project, and

WHEREAS, the cost of the extra work was estimated to be as high as $65,676.39, an amount which exceeds the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $59,167.92,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the project entitled "2007 Cape Seals" from 10 percent ($59,167.92) to 11 percent ($65,676.39) of the original contract price with Intermountain Slurry Seal, Inc.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-725

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE PROJECT ENTITLED "SYLVAN/ROSELLE INTERSECTION IMPROVEMENTS" FROM 10 PERCENT ($281,999.22) TO 13 PERCENT ($366,598.99) OF THE ORIGINAL CONTRACT PRICE WITH TEICHERT CONSTRUCTION

WHEREAS, on July 5, 2006 by Resolution No. 2006-422, the City Council awarded a $2,819,992.25 contract to Teichert Construction to construct the "Sylvan/Roselle Intersection Improvements" project, and

WHEREAS, the contractor started work on August 1, 2006, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the new roundabout, and

WHEREAS, the cost of the extra work was estimated to be as high as $366,598.99, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $281,999.22,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the project entitled "Sylvan/Roselle Intersection Improvements" from 10 percent ($281,999.22) to 13 percent ($366,598.99) of the original contract price with Teichert Construction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-726

A RESOLUTION APPROVING THE PROPOSED 2007-08 REVENUE ENHANCEMENTS AND DEPARTMENT BUDGET REDUCTIONS TO HELP MAINTAIN THE CITY'S 8% GENERAL FUND POLICY RESERVE

WHEREAS, the Finance Department has been reviewing 2006-07 fiscal year finances and evaluating the financial forecast for the 2007-08 fiscal year, and

WHEREAS, the Finance Director made presentations to the Finance Committee on September 24, October 22, November 13 and November 26 regarding the financial status of the General Fund, and

WHEREAS, the Finance Department informed the Finance Committee that due to current economic conditions, the City's projected General Fund revenues need to be reduced by approximately $5.3 million;

WHEREAS, the City Manager requested all department heads to review their operating budgets and provide proposed reductions that would not result in reductions in force or reduce service levels, and

WHEREAS, the Finance Department presented the proposed budget reductions and additional revenue generation ideas to the Finance Committee on November 13 and November 26, 2007, and

WHEREAS, the Finance Committee reviewed the proposed revenue enhancements and budget reductions and has forwarded its recommendations to the full City Council, and

WHEREAS, the City Council considered the recommendations of the Finance Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approve the following:

ADDITIONAL REVENUES AND BUDGET REDUCTIONS. That the proposed additional revenues and budget reductions for FY 2007-08 be approved ($7,746,168) as detailed in **Exhibit A,** which is incorporated by reference herein.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the steps necessary to implement the approved budget adjustments shown in **Exhibit A.**

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion is being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted the following vote:

AYES:	Councilmembers:	Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Dunbar
ABSENT:	Councilmembers:	O'Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
City Manager		Generate salary and benefit cost savings by leaving the Management Analyst position vacant for the remainder of the year.	($58,080)	The workload will be absorbed through the use of interns for part of the year. The remaining workload will be distributed to other staff members as appropriate.	YES	1
		Reduce spending in office supply, training and small equipment line items; reduce open encumbrances.	($43,551)	No significant short-term impact	NO	2
Total City Manager Department Proposal:			($101,631)			
Personnel		Generate salary and benefit cost savings by leaving a vacant Employee Relations Specialist position open until November	($46,701)	Duties will be absorbed by current ERS & Deputy Director; delays will occur in resolving issues and responding to depts.	YES	3
		Generate salary and benefit cost savings by leaving a vacant Senior Admin. Office Assistant position open until November	($32,683)	Duties will be absorbed by other dept. staff and Personnel Director. Delays will occur in resolving issues and responding to depts.	YES	4
		Recognize salary and benefit cost savings created by underfilling a Personnel Analyst position with an Admin. Analyst I.	($14,533)	No impact. Savings would be realized anyway as decision to underfill was made prior to budget reduction request.	YES	5

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
Personnel		Recognize salary and benefit cost savings created by a Personnel Analyst on medical leave.	($8,825)	No impact. Savings would be realized anyway as decision to take leave without pay was made without regard to budget conditions.	YES	6
		Recognize salary and benefit cost savings due to filling Organization Specialist position at a lower salary	($5,716)	None.	YES	7
		Reduce spending in office supply, professional services and small equipment line items.	($26,978)	Most reductions relate to fewer recruitments due to hiring freezes. $13,478 was for Interest-base Negotiation Training. If this is required, other funds will have to be cut.	YES	8
Total Personnel Department Proposal:			($135,436)			

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
Parks, Rec & Neighborhoods		Recognize salary and benefit cost savings by reducing hours for part-time Public Information Officer	($6,050)	Quality of flyers may decline; time needed for proofing may increase.	YES	9
		Recognize salary and benefit cost savings by not filling the Confidential Sr. Admin. Office Assistant position and discontinuing support to Community Qualities Forum.	($46,551)	Support of CQF will need to be reassigned; workload on other dept. employees increased; some clerical support can be reassigned.	YES	10
		Recognize salary and benefit cost savings by not filling the vacant Parks Associate Planner position.	($79,408)	Current staff will handle additional workload. Ability to respond to planning issues and inspections will be impacted.	YES	11
		Recognize salary and benefit cost savings by reallocating Crewleader & Parks Mtce. Mechanic positions	($9,964)	No impact. This action aligns positions with the current service needs.	NO	12
		Recognize salary and benefit cost savings from the 2 month vacancy of the Maintenance Worker position.	($10,052)	Creates deferred maintenance issues; could create safety issues.	YES	13
		Recognize salary and benefit cost savings from filling new positions at lower than anticipated salary levels.	($5,378)	No impact. Savings are due to retirements, resignations & terminations.	NO	14

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
		Recognize salary and benefit cost savings from leaving Recreation Supervisor II position vacant.	($35,211)	Less supervision of large programming area. Duties absorbed by other Rec. Sprvsrs.	YES	15
		Recognize salary and benefit cost savings from reduced part-time recreation staff hours during construction of King-Kennedy Center.	($33,900)	Minimal impact due to construction period. Fewer events held, thus less staff are needed.	YES	16
Parks, Rec & Neighborhoods	Recognize reduction in rental & class revenues due to the reduction in staffing related to construction at King Kennedy Center.		$4,100	Minimal impact due to construction period. Fewer events held, thus less staff are needed.	YES	17
		Recognize salary and benefit cost savings from having a Code Enforcement Officer work a reduced schedule (.8 FTE vs. 1.0 FTE).	($8,960)	This employee is limited to 80% schedule due to PERS issues.	NO	18
		Generate salary and benefit cost savings by reducing part-time Guest Services staff hours.	($5,000)	Staff is not needed at the currently budgeted level.	NO	20
	Charge Fire Dept. for vacant lot enforcement.		($5,000)	None. Charges were not included in adopted budget.	NO	21

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
Parks, Rec & Neighborhoods	Increase Service Credit charges to Compost Program		($16,619)	None	NO	22
		Reduce the cost of printing the Winter/Spring/Summer Activity Guides	($10,287)	Quality could decline, decreasing professional appearance of guides.	NO	23
	Recognize less pool fee revenue from the closure of Beyer High pool and continued closure of Davis High Pool		$2,838	Less revenue due to the closure of these pools.	NO	24
		Savings in part-time salary, utilities and chemical costs from the closure of Beyer High pool and continued closure of Davis High Pool	($10,242)	Participants will use Modesto or Johansen High. Attendance at Davis, Beyer and Downey was minimal.	NO	25
		Reduce costs associated associated with new mtce. Contract with Modesto Nuts.	($35,000)	Limits funding available for cost increases related to field maintenance.	YES	26
		Reduce General Fund contribution to Thurman Field mtce.	($35,000)	Reduces improvments made to the facility.	YES	27
		Reduce Service Credits to Cultural Administration from Centre Plaza Fund.	($1,973)	No impact if Deputy Director position remains unfilled. Costs to Centre Plaza increase if position is filled before 6/30.	YES	28

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
Parks, Rec & Neighborhoods		Delay McHenry mansion foundation structural study	($50,000)	No immediate impact but erosion problem must be addressed.	YES	29
		Generate part-time salary and supply cost savings by cancelling the Graceada Park 2008 Spring weekend program	($4,000)	No Spring program would be held, but participation was minimal at 27 per day.	Discussion Item	30
		Generate part-time salary and supply cost savings by closing programs and closing the pool at Whitmore Park.	($8,000)	Participants will go to another park for drop-in programs; pool needs major repairs not budgeted; last summer's participation totaled 320.	Discussion Item	31
		Reduce General Fund Contribution to Golf CIP	($50,000)	Limits funding available for improvements or emergency repairs to courses or buildings.	YES	32
		Reduce General Fund Contribution to Parking lot maintenance program	($80,000)	Maintenance of lots will be deferred; safety could become an issue if not restored soon.	YES	33
	Recognize Service Credit Revenue collected from other departments.		($13,886)	No impact. These credits were not included in adopted budget.	YES	34
	Recognize Fine Revenue received in excess of projected YTD amount.		($20,000)	None	YES	35

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
		Recognize savings from newly hired Fund Development Specialist	($9,694)	No impact. New hire started at lower salary level.	YES	36
		Recognize 6 mo. savings from Acting Dept. Director	($30,352)	No impact. Reflects appointment of Director to Interim City Manager and Deputy Director to Acting Director	YES	37
	Lower service credit revenue will result from having an acting director for 6 mos.		$19,035			
	Increase service credit revenue from Recycling and Integrated Waste programs		($16,619)	Increases in the garbage rate components allow more cost recovery	NO	38
	Recognize revenue from Landfill fund for discing of Carpenter Road site.		($4,000)	Increases in the garbage rate components allow more cost recovery	NO	39
		Adjust Youth Scholarship Funding to reflect actual awards.	($30,000)	None. This adjust. reflects the awards made in FY 06-07.	NO	40
		Recognize 2 mo. savings from vacant Crewleader for (Nov. - Dec.)	($12,548)	Vacancy is due to a retirement. If not filled by Summer, service impacts could result.	YES	111
		Recognize 4 mo. savings from vacant Mtce. Mechanic (Sept. - Dec.)	($20,104)	This extends the savings shown in the initial reductions by 4 mos. If not filled by Summer, service impacts could result.	YES	113

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
		Recognize 3 mo. savings from vacant Mtce. Worker II (Oct. - Dec.)	($15,292)	This extends the savings shown in the initial reductions by 3 mos. If not filled by Summer, service impacts could result.	YES	114
		Recognize 3 mo. savings from re-assigned Recreation Supervisor (vacant) (Jan - Mar.)	($17,605)	This position is vacant and will not be filled until 5/08. Other supervisors are taking the	YES	115
		Recognize savings from having an Acting Recreation Program Manager	($16,744)	Savings is from difference in pay level for acting mgr.	YES	116
		Recognize 6 mo. savings from vacant crewleader.	($33,141)	Position has been vacant since July 1st.	NO	117
		Reduce loan from General Fund to Solid Waste Fund for Carpenter Road Landfill Study	($10,000)	None. Costs for study were less than expected.	YES	127
		Remove General Fund Support for Dennett Dam removal project.	($300,000)	Recinds direction to engineer removal of the dam. Staff will seek grant funding for this work.	YES	41
Total P,R,N Department Proposal:			($1,058,919)			

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
Police Department						
		Recognize savings from 3 vacant Police Clerk positions	($188,500)	Overall, staff reductions will impact the department's ability to provide the same level of response to calls.	YES	42
		Recognize savings from 1 vacant Crime Analyst position	($71,300)		YES	43
		Recognize savings from 7 vacant officer positions	($566,529)		YES	44
		Recognize savings from 1 vacant officer position due to job sharing	($83,333)		YES	45
		Recognize savings from 4 vacant Community Service Officer positions	($195,500)		YES	46
		Recognize savings from 1 vacant Sergeant position	($110,500)	One position retired effective 10/30/07.	YES	47
		Recognize savings from 2 vacant Detective positions	($170,010)		YES	48
		Recognize savings from not hiring 2 academy recruits.	($100,000)		YES	49

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
Police Department		Recognize savings from 1 vacant Lieutenant position	($127,000)		YES	50
		Recognize savings from 1 vacant Animal Control position	($51,000)	Slower/limited response to animal control calls.	YES	51
		Reduce spending in Conference Account	($60,000)	Staff will look for lower cost training options; fewer training opportunities will be provided.	YES	52
	Increase Revenue Recovery		($475,000)	Downtown policing cost allocated to parking program; Anticipated court revenues.	NO	53
		Cancel General Fund Transfer to Range Training Facility.	($120,000)	Police CFF program will transfer an additional $50k this year.	YES	54
		Recognize savings from 11 sworn vacancies and 1 additional non-sworn vacancy that are estimated to occur later this year.	($432,800)	Currently there are 14 sworn vacancies and 8 non-sworn vacancies	YES	55
	Reduce General Fund Contribution to CAD software by using Grant monies		($142,462)	Allows new grant money to replace General Fund set-aside as approved by grant agency.	YES	56
Total Police Department Proposal:			($2,893,934)			

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
Community & Econ. Development		Recognize savings from 3 vacant Building Inspector positions	($227,832)	No impact as long as residential building activity remains constant.	YES	57
		Recognize savings from holding 1 Associate Civil Engr. Position vacant for 6 months	($50,235)	Will impact plan check time cycle activity for commercial projects.	YES	58
		Reduce Admin. Office Assist. II position time by 500 hours this year	($7,500)	No impact this fiscal year. Could impact Tidemark progress next fiscal year.	YES	59
		Recognize savings from holding 1 City Engr. Position vacant for 6 months	($13,612)	No impact.	YES	60
		Recognize savings from holding 1 Associate Civil Engr. Position vacant for 6 months (LDE)	($38,532)	No impact this fiscal year.	YES	61
		Recognize savings from holding 1 Admin. Office Assist. III position vacant for 4 months.	($16,767)	Workload shifted to other staff, which impacts productivity.	YES	62
		Recognize savings from holding 1 Senior Planner Position vacant for the rest of the year	($90,336)	Will impact application processing ability and/or ability to complete zoning code amendment.	YES	63

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
		Recognize savings from holding 1 Principal Planner Position vacant 3.5 months.	($31,649)	Position filled 10/16. Savings shown are from July to that date.	YES	64
		Reduce business/professional services expenses	($27,000)	May impact implementation of Citygate assessment and future programs associated with that study.	YES	65
Community & Econ. Development		Close CIP L092 Kiernan Business Park Storm Drain Study, return funding to General Fund.	($49,940)	Funding for this study exceeds what is needed.	YES	66
	Increase service credit revenue from add'l work billable to CIP projects		($11,000)	No impact - proposal will create svc credit of 50% for remainder of year.	YES	67
	Increase service credit revenue from add'l work billable to CIP projects		($26,000)	No impact - proposal will create svc credit of 50% for remainder of year.	YES	134
		Generate savings by reducing software and office supply line items	($2,000)	Purchases can be deferred to next year.	YES	135
		Remove funding for National APA conference.	($2,124)	Cuts one conference for Planning Commission.	YES	136

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
		Generate savings by reducing conference, professional svc. & supply line items.	($5,730)	Eliminates contribution to United Way job fair ($1,280) and reduces monies for office supplies and software.	YES	138
		Reduce planning consultant budget	($28,593)	Will impact the ability to complete general fund projects.	YES	68
Total CED Department Proposal:			($628,850)			

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
City Attorney						
		Recognize savings from leaving Deputy City Attorney II position vacant until January 2008.	($50,391)	Some duties are absorbed by other attorneys; More reliance on outside counsel may result.	YES	69
		Recognize savings from leaving Senior Deputy City Attorney position vacant until January 2008.	($52,043)	Some duties are absorbed by other attorneys; More reliance on outside counsel may result.	YES	70
		Recognize savings from leaving vacant Admin. Office Assistant II vacant for remainder of this year	($19,078)	Some duties are absorbed by other support staff.	YES	71
		Reduce expenditure of prior year carryover monies.	($39,272)	Delay portions of office redesign.	YES	72
		Reduce spending for books and periodicals by 10%.	($5,041)	Reduces the number of law books and resource material purchased.	NO	73
Total City Attorney Department Proposal:			($165,825)			
City Clerk						
		Leave City Auditor position vacant for 6 months (Jan - June 2008)	($50,626)	Fewer internal audits will be completed during the year.	YES	74
Total City Clerk Department Proposal:			($50,626)			

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
Fire Department		Leave Fire Mechanic position vacant for the rest of the year.	($62,600)	Delays repairs; could increase costs associated with outside maintenance work.	YES	75
		Leave 8 firefighter positions vacant for 8 months.	($426,000)	Increases overtime expenses.	YES	76
		Remove funding for 4th position on truck companies. (9 firefighter positions)	($329,000)	Delays response to emergency needs on fire and rescue scenes.	NO	77
		Reduce funding for apparatus replacement.	($420,000)	Delays apparatus replacement schedule; No significant impact if restored next year.	YES	78
		Recognize savings from naturally occurring events, other vacancies	($275,000)	None. Represents historical savings over the last 7 years.	NO	79
Fire Department		Recognize recurring Worker's Compensation program reimbursements	($221,000)	None. Represents historical savings over the last 7 years.	NO	80
		Reduce spending on repair/maintenance, tools and field supplies	($248,100)	Delays completion of base radio upgrades; delays mobile inspection project; defers mtce.	YES	81
Total Fire Department Proposal:			($1,981,700)			

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
Information Technology						
		Reduce spending on legal expenses	($23,364)	None.	NO	82
Total I.T. Department Proposal:			($23,364)			
Public Works						
	Traffic Services					
		Reduce Professional Services Account	($11,157)	This one time reduction will diminish the division's ability to respond to grant opportunities.	YES	83
	Increase Service Credits		*($5,000)*	Staff will charge costs more fully to all capital projects.	YES	*84*
	Administration					
	Increase Service Credits with Water & Sewer Funds for PCE Litigation Work (Salary for 5 weeks of trial work)		($13,094)	Funding allows the city to have staff present during the PCE litigation trial, slated to begin in November.	YES	85
	Add Service Credit to cover cost of hourly employee working on personnel matters.		($43,922)	This allows the department to maintain compliance with laws, rules and MOU requirements.	NO	86

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
		Move remaining admin. Staff to 10th St. Place from Elm and reduce charge for building maintenance	($8,000)	This will consolidate staff and allow the admin. program to save on building maintenance.	NO	87
		Reduce spending on supplies, conference, training materials and vehicle pool costs.	($9,142)	Reduces training opportunities for staff.	YES	88
	Environmental Planning & Research					
Public Works						
		Reduce service credits from Water and Sewer based on a new service agreement.	($1,000)	Less work activity related to water/sewer enterprise activities will occur.	YES	89
		Reduce spending for supplies, conferences and computers	($5,139)	Training will be reduced for general fund related activities. Computer equip. will not be purchased this fiscal year.	YES	90
	Community Forestry					
		Recognize salary savings from vacant O&M Crewleader position	($11,000)	Reduces productivity in field as Tree Trimmer Crewleader is backfilling this position.	YES	91
		Recognize salary savings from vacant Tree Trimmer position	($7,000)	400 trees have not been pruned due to this vacancy; overall 1,300 trees will not be pruned.	YES	92
		Recognize salary savings from vacant Maintenance Worker II position.	($13,606)	Reduces clearance pruning and stump removal efforts.	NO	93
	Graffiti Abatement					
		Reduce or eliminate overtime	($13,113)	Reduced ability to respond to graffiti complaints will result.	YES	94
Total Public Works Department Proposal:			($141,173)			

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department		Proposed New Revenues	Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
Finance							
	Administration						
		1	Underfill Admin. Office Assistant position.	($7,586)	This will allow us to continue processing the insurance certificates and agenda items without interruption	YES	95
		2	Reduce spending on supplies, conferences and computer equipment	($5,250)	Staff training will be shifted to lower cost activities. Replacement of some equipment will be delayed.	YES	96
	Budget						
		3	Remove appropriation for Deputy Director position	($150,374)	The Director will handle the additional workload. A new Rate Analyst position is proposed to handle utility rate work.	NO	97
4		Reduce Service Credit revenue attributed to work of Deputy Director		$85,152		NO	98
		5	Use "Out-of-Class" appointment to fill vacant Admin. Analyst position	($80,466)	The Executive Assistant position will handle the duties of the Admin. Analyst.	YES	99
		6	Recognize Vacancies in Budget Officer and Budget Analyst positions	($133,141)	Direct supervision of all budget staff will be shifted to the Manager of Budget &Fiscal Analysis.	YES	100

Recommended Spending Reductions / New Revenues to Meet Initial Savings Target For 12/4 Meeting

Department	Proposed New Revenues		Proposed Spending Reduction	(Increase) Decrease Fund Balance	Program Impact:	One-time Proposal?	Item Number
Finance	Accounting	7	Recognize savings from vacant Budget Analyst; Hire Temporary Budget Analyst; fill position full-time March 2008.	($16,109)	This will allow accounting staff to be cross-trained on budget duties while budget staff will be cross-trained on accounting tasks.	YES	101
		8	Request Above Class pay for 2 Accountant II's and 2 Senior Accountants for work that is in addition to their normal workload.	$11,118	Finance is proposing to leave 2 budget positions vacant. This will allow accounting staff to assume budget duties resulting from these vacancies to ensure that critical budget tasks are performed timely.	NO	102
		9	Capture savings from vacant Accountant II position for 1 month and fill at lower step; *this item goes with items #6 & #8above.*	($19,380)	One staff member has left to work for Public Works. Workload will be shifted to remaining staff.	NO	103
		10	Leave Admin. Analyst (PD grants) vacant for 5 months	($33,803)	Existing staff has been handling the workload on an as-available basis.	YES	104
		11	Reduce spending on supplies, conferences and computer equipment	($5,650)	Staff training will be shifted to lower cost activities. Replacement of some equipment will be delayed.	YES	105
	12		Increase service credits to Storm Drain fund for Utility Billing services	($184,034)	No impact. Add'l cost is offset by lower general cost allocation charge.	NO	106
	Purchasing	13	Use provisional/contract appointment to fill vacant buyer position	($30,234)	This allows commodity purchases to be handled timely in spite of buyer vacancy.	YES	107
Total Finance Department Proposal:				($569,757)			

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-727

A RESOLUTION APPROVING THE PROPOSED POLICY RECOMMENDATIONS TO HELP MAINTAIN THE CITY'S 8% GENERAL FUND POLICY RESERVE AND PROVIDING FOR CERTAIN TRANSFERS OF FUNDS

WHEREAS, the Finance Department has been reviewing 2006-07 fiscal year finances and updating the financial forecast for the 2007-08 fiscal year, and

WHEREAS, the Finance Director made presentations to the Finance Committee on September 24, October 22, November 13 and November 26, 2007 regarding the financial status of the General Fund, and

WHEREAS, the Finance Department provided policy recommendations in order to provide additional cost savings or revenue to the General Fund, and

WHEREAS, the Finance Committee reviewed the recommended policy actions and forwarded its recommendations to the full City Council, and

WHEREAS, the City Council considered the recommendations of the Finance Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approve the following policy actions which are more fully described in Exhibit A, which is incorporated by reference herein:

POLICY 1. FORGIVE THE FY2002-03 FLEET REPLACEMENT FUND LOAN TO THE GENERAL FUND. The existing General Fund debt of $1.75 million to the Fleet Replacement fund will be forgiven as of July 1, 2007. Annual payments of $212,000.00 from the General Fund will be reclassified as vehicle replacement charges made to the Fleet Replacement Fund.

POLICY 2. REQUIRE THE STORM DRAINAGE FUND TO PAY ITS FULL SHARE OF GENERAL FUND COSTS. The General Fund subsidies from FY 2006-07 ($879,000) and 2007-08 ($753,000) will be treated as advances to the Storm Drainage Fund. The full value of

service charges for billing services and administrative overhead costs will also be charged to the Storm Drainage Fund. Upon adoption of a new storm drain rate study, the General Fund will recapture these advances to the Storm Drain fund.

POLICY 3. REQUIRE ALL PROGRAMS TO PAY THEIR ALLOCABLE SHARE OF GENERAL FUND OVERHEAD COSTS. The administrative overhead cost plan will be used to determine the programs that will receive an allocation of overhead costs as shown in Exhibit B which is incorporated by reference herein.

POLICY 4. INITIATE REPAYMENT OF THE LOANS FROM THE GENERAL FUND TO THE REDEVELOPMENT AGENCY. The loans made to the Redevelopment Agency by the General Fund shall be repaid in an amount that may vary by year but that is estimated to average $500,000.00 annually. The amount of repayment shall be determined by the City Council and Agency Board at the time and place that the Annual Operating Budgets of the General Fund and Redevelopment Agency are considered for adoption each year. The repayment shall be of the principal amount only which is estimated to be $20.9 million.

POLICY 5. SUSPEND, FOR ONE YEAR, THE GENERAL FUND CONTRIBUTION TO THE OTHER POST EMPLOYMENT BENEFITS (OPEB) FUND. The General Fund contribution to the OPEB Fund that represents the long-term portion of the retiree benefit liability ($953,545) shall be cancelled in FY 2007-08. This action shall not affect the payment of current benefits under this program.

POLICY 6. MAINTAIN FUNDING TO THE WORKER'S COMPENSATION INSURANCE FUND AT THE 50% CONFIDENCE LEVEL. The annual General Fund contribution to increase the level of funding for the Worker's Compensation Insurance Fund of $894,631 shall be cancelled in FY 2007-08. This action shall not affect the payment of current benefits under this program.

POLICY 7. TRANSFER $650,000 FROM THE INFORMATION TECHNOLOGY RESERVE FUND TO THE GENERAL FUND. A portion of the General Fund contribution for

the City's Enterprise Resources Program ($650,000) transferred to the Information Technology Fund in FY 2005-06 shall be returned to the General Fund.

POLICY 8. TRANSFER $500,000 FROM THE GAS TAX FUND TO THE GENERAL FUND. The General Fund subsidy for street improvement activities in FY 2007-2008 shall be reduced by $500,000.00 and $500,000.00 in unallocated Local Transportation Funds shall be transferred to fund these costs.

POLICY 9. SUSPEND, FOR ONE YEAR, THE OPERATING DEPARMENTS' FLEET EQUIPMENT REPLACEMENT CHARGES. The General Fund Operating Department's fleet equipment replacement charges ($882,930) shall be deferred in FY 2007-08. The timing and amount of repayment shall be determined at the time the FY 2008-2009 General Fund operating budgets are adopted.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the policy actions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion is being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted the following vote:

AYES: Councilmembers: Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Dunbar

ABSENT: Councilmembers: O'Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Recommended Financial Policy Items

Re-characterize FY2002-2003 Fleet Fund Loan to General Fund and Continue Annual Payments

In 2002-2003, the decision was made to lend $2.0 million in "excess Fleet Replacement Fund cash reserves" to the General Fund. This amount represented cash that was not needed immediately for the replacement of equipment. Since this cash will be needed in the future to pay for vehicle replacements, the General Fund began making principal and interest payments in the amount of $212,000.00 starting in fiscal 2005-2006.

At the time the loan was issued, the General Fund vehicle replacement accounts were not reduced in the Fleet Fund and the scheduled vehicle replacements have been made on time using available cash. Staff's recommendation to the City Council is to forgive the loan to the General Fund as of July 1, 2006 but retain the payments that were intended to restore the cash balance in the Fleet Replacement Fund to ensure that the Fleet Fund has the cash necessary to fund all vehicle replacements on the original timeline. If the City Council accepts staff's recommendation,

General Fund
The General Fund unappropriated reserve will increase by $1.75 million dollars due to the reduction in outstanding debt and the reclassification of the 2006-2007 loan repayment as a vehicle replacement charge.

The General Fund will continue to pay $212,000 to the Fleet Fund as a vehicle replacement charge. By doing so, the Fleet Replacement Fund will recapture the cash it gave up in FY '02-03 and will maintain vehicle replacements according to the existing timeline.

Fleet Replacement Fund
The Fleet Replacement Fund reserve will decrease by $1.75 million.

The Fleet Replacement Fund will adjust its replacement charges to include the $212,000.00 annual payment instead of treating it as the return of principal and interest.

Cause the Storm Drain Fund to Account for All of Its Costs

For the last several years, the General Fund has been subsidizing the Storm Drain Fund in the amount of $879,000.00 for the 2006-2007 fiscal year and $753,000 for the 2007-2008 fiscal year. Staff has been meeting to discuss issues related to the next storm drain rate study and the question of how to

ensure that the new rates fully capture the program costs was raised. After conferring with the city's auditors, staff has developed the following recommendations:

The City Council can declare that the subsidies from the 2006-2007 and 2007-2008 fiscal years are advances to the Storm Drain Fund. By taking this action, the General Fund has the opportunity to recapture these amounts in the event that a new rate structure is adopted in the future.

Staff is also recommending that the Storm Drain Fund should pay its full share of any general fund costs that relate to its operations, such as overhead and billing services. At the time the current year budget was adopted, the Storm Drain Fund was not allocated all of the applicable service credits that it would normally be charged. If these costs are not charged to the Storm Drain Fund, the upcoming rate study will not be able to capture these costs and include them as part of the rate base. In the near term, the Storm Drain fund will reflect a deficit fund balance until new rates are adopted which will make the fund self-sufficient.

If the City Council wishes to characterize the subsidies to the Storm Drain Fund as advances to the fund, a resolution declaring this intent should be adopted. In addition to reclassifying the subsidies, the resolution should also indicate that the advances are intended to be repaid following the adoption of the new Storm Drain Rate Study. By declaring its intent to be repaid from the future rate study, the city will be in compliance with Governmental Accountant Standards Board pronouncement 34 (GASB 34), which requires that all advances of this nature shall have an identified repayment timeline.

If the City Council adopts the resolution described above, the effect that the creation of the interfund advances would have on the General Fund and Storm Drain Fund are shown below:

General Fund
There would be no change to the unappropriated fund balance during the 2007-2008 fiscal year as the result of reclassifying prior year subsidies as advances. This is due to the accounting requirement that the advances must be treated as long-term receivables. Only after new revenues are approved for the Storm Drain fund can these amounts be repaid. Following the adoption of a new fee structure, staff would establish a timeline for repayment of the advances made by the General Fund.

Storm Drain Fund
The ending balance of the Storm Drain Fund will be decreased by the amount of all advances made to it by the General Fund and by the increase in overhead charges allocated to it by the General Fund.

Require all Programs to Pay Their Allocable Share of General Fund Overhead Costs

The city allocates the General Fund administrative overhead costs to a variety of programs and funds each year. After reviewing the overhead cost allocations, staff has determined that not all programs that should be charged a portion of these overhead costs are being billed for their share of these costs. There are a number of reasons for this, including the fact that certain programs cannot receive an overhead charge because regulatory restrictions limit or prohibit the allocation of any overhead charges. Other programs lack the resources to absorb additional costs from the overhead allocation model. Staff is still reviewing the list of programs that have not been charged their share of the General Fund overhead costs in order to determine which ones have the resources to pay at least a portion of the allocated costs. Among these programs is the Local Transportation Fund, which provides resources to pay for street maintenance and street construction projects. The overhead costs that have been allocated to the street function are in excess of $500,000.00 per year. In order for the fund to be able to pay the overhead costs, staff must identify street maintenance and street project costs that can be reduced by this amount.

Initiate repayment of the loan from the General Fund to the Redevelopment Agency

Based on current revenue trends and available reserves, the RDA can begin repayment of the loans made to it by the General Fund. Assuming that repayment begins in the 2007-2008 fiscal year, the amount of repayment can average $500,000 per year while leaving the agency with the resources to handle routine administrative costs. The loan repayment will come from non-housing project money and not from the low-moderate income housing fund.

The actual amortization period and terms of the loan repayment depend upon whether the agency is expected to repay principal and interest, or principal only. The amount of the loan principal is approximately $20.9 million and interest adds approximately $38.9 million to this amount for a total debt of $59.8 million.

If the City Council and Agency Board agree that the subsidy loan should be repaid an average of $500,000.00 per year, the effects on the General Fund and the RDA will be as follows:

General Fund
The amount of the loan will be recognized on the balance sheet and will increase the fund balance of the General Fund by $500,000 each year. The balance of the loan will be recorded as a long-term receivable.

RDA
The balance sheet of the RDA project fund will reflect the entire amount of the loan payable. The annual repayment of the loan will be budgeted each year, starting with the current year.

Suspend for One Year, the General Fund Contribution to the Employee Benefit Fund that Represents the Reduction of the Long-term Portion of the Retiree Benefit Liability

The Employee Benefit Fund allocates slightly more than $1.0 million across all funds that have employees who receive benefits under the retiree benefit program. The General Fund's share of this "surcharge" is $953,545. Staff is recommending that this contribution should be cancelled for the current year and restarted when the General Fund has the resources to begin making the contribution again.

If the City Council adopts this recommendation, the effect on the General Fund and the Employee Benefit Fund will be:

General Fund
The expense for retiree benefits will be decreased by $953,545.00 and unappropriated fund balance will increase by this amount.

Employee Benefit Fund
Contribution revenue will decrease by $953,545.00 and the net outstanding liability for retiree benefits will increase by this amount.

Maintain Funding to the Worker's Compensation Insurance Fund at the 50% Confidence Level instead of the 70 – 75% Confidence Level

The Worker's Compensation Insurance Fund allocates slightly more than $1.0 million across all funds, in the form of a surcharge, to increase the level of funding to the 70 – 75% confidence level from the expected level or 50% confidence level. The General Fund's share of this "surcharge" is approximately $896,000.00 per year. Staff is recommending that this surcharge be cancelled for the current year and restarted when the General Fund has the resources to begin making the contribution again, since the city's ability to maintain the reserve level for this program should be tied to the city's overall financial health. This means that when adequate resources exist to fund the reserve at the 70-75% confidence level, the city should do so.

If the City Council adopts this recommendation, the effect on the General Fund and the Employee Benefit Fund will be:

General Fund
The expense for worker's compensation benefits will be decreased by $896,000.00 and unappropriated fund balance will increase by this amount. Please note that this is a one-time savings since future contributions will be determined once the actuarial analysis for the 2008-2009 fiscal year has been reviewed.

Worker's Compensation Insurance Fund
Contribution revenue will decrease by $896,000.00 and the total funding for worker's compensation will be equal to the expected liability level, or the 50% confidence level.

Return the Unappropriated Portion of the Financial Software Reserve in the Information Technology Fund

The City Council approved a transfer from the General Fund to the Information Technology Fund during the 2005-2006 fiscal year for the purpose of creating a reserve that would be used to pay a portion of the costs for the city's new financial software program. At the same time, the Water and Sewer funds both set aside $500,000.00 within their reserves to fund a portion of the new software. Staff will be bringing a recommendation to the Finance Committee for the approval of a consultant contract that will start the development of specifications for the new program. After paying for the cost of specification development, staff estimates that there will be $650,000.00 available in the Information Technology Reserve.

At this time staff is recommending that the balance of $650,000.00 should be returned to the General Fund.

Utilize Unallocated Local Transportation Fund Monies to Offset the City's Contribution for Street Maintenance Activities

The city currently spends more than is required toward the Maintenance of Effort spending limit for street maintenance that is imposed under Proposition 42. This year, no Proposition 42 monies have been allocated and therefore no Maintenance of Effort spending limit exists. Staff identified $500,000.00 in LTF monies that were allocated to the city late in the 2006-2007 fiscal year and set them aside until a suitable use could be identified.

At this time staff is recommending that these monies should be directed for use in the street maintenance program in the place of General Fund monies.

Defer the Fleet Replacement Charges to the General Fund

The Fleet Replacement Fund has sufficient cash reserves that will allow it to replace vehicles this year without a contribution from the General Fund. The FY

2007-2008 fleet replacement charge to the General Fund is approximately $883,000.00.

Staff is recommending that this payment should be deferred until such time as the General Fund has the resources to pay this amount.

City of Modesto Overhead Cost Allocation for FY 2007-2008

Fund #	Fund Description:	Original Allocation	Updated Allocation	Difference
1130	CDBG	124,848	135,488	10,640
6000	Parking Fund	26,679	39,293	12,614
6100	Water Enterprise	722,380	563,449	(158,931)
6210	Sewer Enterprise	760,932	744,672	(16,260)
6280	Storm Drain Fund	249,352	65,318	(184,034)
6310	Airport	38,256	144,743	106,487
6520	Bus Service	43,714	13,856	(29,858)
6530	Transportation Center	9,742	7,493	(2,249)
6540	Fixed Route Transit	224,338	104,134	(120,204)
6550	Bus Fixed Route Altern.	4,000	1,312	(2,688)
6600	Golf Fund	92,135	14,984	(77,151)
7200	Fleet	264,010	242,971	(21,039)
		2,560,386	2,077,713	(482,673)
9020	RDA	0	18,868	18,868
9050	RDA	0	51,023	51,023
9060	RDA	0	1,325	1,325
9080	RDA	0	4,722	4,722
		0	75,938	75,938
7210	Fleet Equip. Replace.	0	38,285	38,285
6510	Bus Fixed Route	0	14,644	14,644
6290	Compost Operations	0	50,241	50,241
700	Gas Tax	0	426,468	426,468
510	LTF	0	73,532	73,532
520	LTF Non-motorized	0	103	103
310	Solid Waste	0	12,845	12,845
300	Capital Improvements	0	73,427	73,427
		0	689,545	689,545
	Totals:	2,560,386	2,843,196	282,810

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-728

A RESOLUTION APPROVING A LETTER AGREEMENT AMENDING THE SCOPE OF WORK FOR THE AGREEMENT WITH SCS ENGINEERS FOR THE SITE ASSESSMENT OF THE CLOSED CARPENTER ROAD LANDFILL TO BEGIN IMPLEMENTATION OF THE RECOMMENDATIONS CONTAINED IN THE SCS REPORT WITHIN THE $299,500 CURRENTLY APPROVED, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LETTER AGREEMENT

WHEREAS, the City of Modesto operated the Carpenter Road landfill from 1956 to 1968, and the landfill includes fill sites on both the west and east sides of Carpenter Road, in between Kenneth and Robertson Roads and the Tuolumne River, and

WHEREAS, in the future, the landfill will become part of the Tuolumne River Regional Park, and

WHEREAS, in December, 2005, one of the wells on the east fill area tested high for methane gas, and

WHEREAS, during subsequent tests, the methane levels in this well continued to exceed the state's limits, and because of this, the California Integrated Waste Management Board (CIWMB) required the City to determine the cause of the high methane readings and develop a Mitigation and Monitoring Plan to ensure that the closed landfill remains in compliance with state law, and

WHEREAS, the Regional Water Quality Control Board has requested that the impacts of the landfill on groundwater be assessed, and

WHEREAS, in order to prepare the plan, a Site Assessment had to be performed by a qualified engineering firm, and

WHEREAS, due to the uncertainties of what the contractor might find in the Site Assessment and what measures might be needed based on those findings, the Agreement for Assessment and Plan development services was task-based, and

WHEREAS, once each task was completed, the City would decide on whether or not the contractor would proceed with the next step, and

WHEREAS, in June, 2007, after an RFP process, the City Council authorized the City Manager to execute a task-based agreement with SCS Engineers for the Site Assessment and development of a Methane Gas Mitigation, and

WHEREAS, based on the results of the Site Assessment and the recommendations of SCS Engineers, staff believes that it will not be necessary to proceed with preparing a plan for mitigation work at the landfill, and

WHEREAS, it appears that the focus should now shift to installation of gas probes and design and installation of groundwater monitoring wells in the correct locations, on-going monitoring of methane gas and groundwater at the site, as well as site security and on going maintenance of the landfill cover, and

WHEREAS, based on discussions with SCS Engineers and County landfill staff, staff believes that the cost of installing and monitoring the new gas probes and groundwater monitoring wells will be within the funds originally projected for this project, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and supporting approving a letter agreement amending the Scope of Work for the Agreement with SCS Engineers for the Site Assessment of the closed Carpenter Road Landfill to begin implementation of the recommendations contained in the SCS report within the $299,500 currently approved,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a letter agreement amending the Scope of Work for the Agreement with SCS Engineers for the Site Assessment of the closed Carpenter Road

Landfill to begin implementation of the recommendations contained in the SCS report within the $299,500 currently approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Letter Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED

APR - 1 2008

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2008-128

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-729

A RESOLUTION APPROVING AN INCREASE IN THE MAXIMUM RATES FOR SOLID WASTE COLLECTION SERVICES TO REPAY THE $150,000 LOAN FROM THE GENERAL FUND AND TO PROVIDE FUNDING FOR ADDITIONAL INVESTIGATION AND MONITORING OF METHANE GAS AND GROUNDWATER, AS WELL AS SITE SECURITY AND MAINTENANCE, AND APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, AND RESCINDING RESOLUTION NO. 2007-506

WHEREAS, the City of Modesto operated the Carpenter Road landfill from 1956 to 1968, and the landfill includes fill sites on both the west and east sides of Carpenter Road, in between Kenneth and Robertson Roads and the Tuolumne River, and

WHEREAS, in the future, the landfill will become part of the Tuolumne River Regional Park, and

WHEREAS, in December, 2005, one of the wells on the east fill area tested high for methane gas, and

WHEREAS, during subsequent tests, the methane levels in this well continued to exceed the state's limits, and because of this, the California Integrated Waste Management Board (CIWMB) required the City to determine the cause of the high methane readings and develop a Mitigation and Monitoring Plan to ensure that the closed landfill remains in compliance with state law, and

WHEREAS, the Regional Water Quality Control Board has requested that the impacts of the landfill on groundwater be assessed, and

WHEREAS, in order to prepare the plan, a Site Assessment had to be performed by a qualified engineering firm, and

WHEREAS, in June, 2007, after an RFP process, the City Council authorized the City Manager to execute a task-based agreement with SCS Engineers for the Site Assessment and development of a Methane Gas Mitigation, and

WHEREAS, when the State directed the City to determine the cause of the high methane readings, there was no established funding mechanism for the assessment, plan preparation, or implementation of mitigation measures, and

WHEREAS, typically, funding for closure and post-closure at landfills is assessed at the landfill on a per-ton basis, and

WHEREAS, because the cost of the site assessment and possible mitigation measures were unknown at the time the Council initially approved a $150,000 loan from the General Fund to fund the Site Assessment work, with the provision that once the cause of the problem had been determined and the cost of resolving it could be estimated more closely, a method for funding the work would have to be established and the loan repaid to the General Fund, and

WHEREAS, staff is recommending that this work be funded by assessing a Carpenter Road Landfill Fee on the garbage collection companies, with the fee set at a rate high enough to cover both the cost of installing the gas probes, groundwater monitoring wells, and the installation of the fence, as well to establish a reserve account for ongoing monitoring and reporting and maintenance, and

WHEREAS, once the work had been completed and the reserve established, the fee would be reduced to cover only on going maintenance and monitoring costs, and

WHEREAS, the collection companies would be allowed to recover this fee as part of their maximum rates for residential, commercial, and industrial customers, just as they

are allowed to recover fees assessed at working landfills as part of the disposal charge via the maximum rates, and

WHEREAS, staff is recommending that a Carpenter Road Landfill Fund be established, with this fund set up as a sub-fund of the Solid Waste Fund for the remainder of the current fiscal year, and with the preparation of the FY 08-09 Budget, the Carpenter Road Landfill Fund would become a separate Fund administered by the Solid Waste Division, and

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f (2) of the City's Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City's garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

WHEREAS, new maximum rates were calculated, and a recommendation for a new maximum rate schedule was developed, which included a recommendation that quarterly adjustments to the fuel component of the maximum rates be made, and

WHEREAS, a report dated November 19, 2007, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on December 4, 2007, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, at which date and time a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for Garbage Service attached hereto, marked **Exhibit "1"** and incorporated herein by reference, and

WHEREAS, for the quarter beginning January 1, 2008, the fuel price increase for residential maximum rates would be $0.02 per household per month, bringing the maximum rate for residential service to $19.84 per month, and

WHEREAS, for commercial bins, there was no change in the fuel price for a one cubic yard bin collected once a week, and

WHEREAS, because the charges for Industrial Drop Boxes are negotiated between the hauler and the customer, Drop Box fuel prices are not adjusted quarterly, and

WHEREAS, in addition to the fuel adjustment that would become effective January 1, 2008, staff is also proposing changes to the maximum rates to establish the Carpenter Road Landfill Fund and to repay the General Fund as more fully described on **Exhibit "1"**, attached hereto, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and supported approving the creation of a Carpenter Road Landfill Fund, and an increase in the maximum rates for solid waste collection services to repay the $150,000 loan from the General Fund and to provide funding for additional investigation and monitoring of methane gas and groundwater, as well as site security and maintenance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an increase in the maximum rates for solid waste collection services to repay the $150,000 loan from the General Fund and to provide funding for additional investigation and monitoring of methane gas and groundwater, as well as site security and maintenance, as described on Exhibit "1" attached hereto.

BE IT FURTHER RESOLVED that the Council hereby approves adjustments to the maximum rate schedule for City residential, commercial, and industrial solid waste collection services, as described on Exhibit "1" attached hereto.

BE IT FURTHER RESOLVED that Resolution No. 2007-506 is hereby rescinded, effective December 31, 2007.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS

Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:

- One, 96-gallon container for garbage/recyclables
- One, 96-gallon container for green waste
- Blue bag recycling
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment

Standard container service customers may opt for smaller containers; however, maximum rates apply. Containers must be placed in a location set forth in Section 5-5.11 of the Municipal Code.

1. Standard container service –

a. The maximum rate for new sign ups for service or changes in service that occur after July 1, 1996, shall be **$20.34 per month** regardless of size of container. **A fuel component of $0.98 per month is included in the maximum rate for the quarter beginning January 1, 2008 and ending March 31, 2008**. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional garbage container shall be **$14.76 per month**.

2. 60-gallon container service (grandfathered customers) –

a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be **$17.27 per month**. **A fuel component of $0.98 per month is included in the maximum rate for the quarter beginning January 1, 2008 and ending March 31, 2008.** The fuel component may be adjusted quarterly.
b. The maximum rate for each additional garbage container shall be **$14.76 per month.**

3. Fuel Component adjustments - The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October 1/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency.

DETACHABLE CONTAINERS*
Maximum Monthly Rates
Number of Collections Per Week

Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	$ 35.67	$ 60.85	$ 86.00	$ 111.17	$ 136.34	$ 161.51
2 CY	$ 60.85	$ 111.17	$ 161.51	$ 211.84	$ 262.16	$ 312.49
3 CY	$ 86.00	$ 161.51	$ 237.00	$ 312.49	$ 388.00	$ 463.49
4 CY	$ 111.17	$ 211.84	$ 312.49	$ 413.16	$ 513.82	$ 614.49
5 CY	$ 136.34	$ 262.16	$ 388.00	$ 513.82	$ 642.66	$ 765.48
6 CY	$ 161.51	$ 312.49	$ 463.49	$ 614.49	$ 765.48	$ 916.48

* A detachable container rental rate of $10.00 per month is included in the above schedule.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.20 per cubic yard ($0.86) per month for a 1 cubic yard container collected once a week) is included in the maximum rate for the quarter beginning beginning January 1, 2008 and ending March 31, 2008. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

1. **Pick up charge** - $210.95 per pick up
2. **Rental** - $0.85 per day up to 7 day maximum rental
   - $3.00 per day for boxes kept 7 or more days without servicing
   - $10.00 per day for boxes kept 21 or more days without servicing
3. **Disposal charge** - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle.

COMPACTORS

Maximum Monthly Rates

Front Loader Type:

Compactor Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
3 CY	$152.12	$304.24	$456.36	$608.48	$760.60	$912.72
4 CY	$201.72	$403.44	$605.16	$806.88	$1008.60	$1210.32
6CY	$304.24	$608.48	$912.22	$1216.96	$1521.20	$1825.44

Roll-Off Type:

1. 6 CY to 40 CY	$210.95 per pickup
2. Medical waste compactors	$265.00 per pickup
3. Washing compactor	$30.00
4. Disposal Charge:	Actual charge to be paid by customer

EXTRA PICKUPS

1. Standard containers or equivalent	$3.50 plus $1.38/container
2. Detachable containers	$12.00 plus $2.75/cubic yard

SPECIAL SERVICE CONDITIONS

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

DETACHABLE CONTAINER ONLY REPLACEMENT AND CLEANING SERVICE

1 CY	1½ CY	2 CY	3 CY	4 CY	5 CY	6 CY
$10.12	$11.00	$12.10	$15.40	$20.24	$25.08	$29.92

NOTATIONS

1. The above maximum rates include a $0.25 per month per household recycling fee, a $0.05 per cubic yard commercial recycling fee, and a $0.25 per ton industrial recycling fee, payable to the City by the garbage company.
2. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-730

A RESOLUTION AMENDING THE FY 07-08 OPERATING BUDGET TO: ESTABLISH A CARPENTER ROAD LANDFILL FUND (FUND 0360); TO ESTIMATE $313,000 IN REVENUE FOR FY 07-08 TO 0360-355-4403-4099; TO APPROPRIATE $149,500 OF SAID REVENUE TO 0360-355-4403-0235, SERVICES PROFESSIONAL AND OTHER, TO FULLY FUND THE AGREEMENT WITH SCS ENGINEERS; AND TO RECLASSIFY $150,000 OF SAID REVENUE TO 0100-510-9510-4099

WHEREAS, the City of Modesto operated the Carpenter Road landfill from 1956 to 1968, and the landfill includes fill sites on both the west and east sides of Carpenter Road, in between Kenneth and Robertson Roads and the Tuolumne River, and

WHEREAS, in the future, the landfill will become part of the Tuolumne River Regional Park, and

WHEREAS, in December, 2005, one of the wells on the east fill area tested high for methane gas, and

WHEREAS, during subsequent tests, the methane levels in this well continued to exceed the state's limits, and because of this, the California Integrated Waste Management Board (CIWMB) required the City to determine the cause of the high methane readings and develop a Mitigation and Monitoring Plan to ensure that the closed landfill remains in compliance with state law, and

WHEREAS, the Regional Water Quality Control Board has requested that the impacts of the landfill on groundwater be assessed, and

WHEREAS, in order to prepare the plan, a Site Assessment had to be performed by a qualified engineering firm, and

WHEREAS, in June, 2007, after an RFP process, the City Council authorized the City Manager to execute a task-based agreement with SCS Engineers for the Site Assessment and development of a Methane Gas Mitigation, and

WHEREAS, when the State directed the City to determine the cause of the high methane readings, there was no established funding mechanism for the assessment, plan preparation, or implementation of mitigation measures, and

WHEREAS, typically, funding for closure and post-closure at landfills is assessed at the landfill on a per-ton basis, and

WHEREAS, because the cost of the site assessment and possible mitigation measures were unknown at the time the Council initially approved a $150,000 loan from the General Fund to fund the Site Assessment work, with the provision that once the cause of the problem had been determined and the cost of resolving it could be estimated more closely, a method for funding the work would have to be established and the loan repaid to the General Fund, and

WHEREAS, staff is recommending that this work be funded by assessing a Carpenter Road Landfill Fee on the garbage collection companies, with the fee set at a rate high enough to cover both the cost of installing the gas probes, groundwater monitoring wells, and the installation of the fence, as well to establish a reserve account for ongoing monitoring and reporting and maintenance, and

WHEREAS, once the work had been completed and the reserve established, the fee would be reduced to cover only on going maintenance and monitoring costs, and

WHEREAS, the collection companies would be allowed to recover this fee as part of their maximum rates for residential, commercial, and industrial customers, just as they are allowed to recover fees assessed at working landfills as part of the disposal charge via the maximum rates, and

WHEREAS, staff is recommending that a Carpenter Road Landfill Fund be established, with this fund set up as a sub-fund of the Solid Waste Fund for the remainder of the current fiscal year, and with the preparation of the FY 08-09 Budget, the Carpenter Road Landfill Fund would become a separate Fund administered by the Solid Waste Division, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and supported approving the creation of a Carpenter Road Landfill Fund, and an increase in the maximum rates for solid waste collection services to repay the $150,000 loan from the General Fund and to provide funding for additional investigation and monitoring of methane gas and groundwater, as well as site security and maintenance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 07-08 operating budget to: establish a Carpenter Road Landfill Fund (Fund 0360); estimate $313,000 in revenue for FY 07-08 to 0360-355-4403-4099; appropriate $149,500 of said revenue to 0360-355-4403-0235, Services Professional and Other, to fully fund the agreement with SCS Engineers; and reclassify $150,000 of said revenue to 0100-510-9510-4099.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-731

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF GEORGE MAUDLIN FROM THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, GEORGE MAUDLIN was appointed a member of the Golf Courses Advisory Committee, on July 3, 2007, and

WHEREAS, GEORGE MAUDLIN has tendered his resignation from the aforementioned committee.

NOW, THEREFORE, BE IT RESOLVED that the resignation of GEORGE MAUDLIN from the Golf Courses Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to GEORGE MAUDLIN for his service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-732

A RESOLUTION APPROVING THE AMENDED 2008 CITY COUNCIL MEETING CALENDAR

BE IT HEREBY RESOLVED by the Council of the City of Modesto that 2008 City Council Meeting, attached hereto as "**Exhibit A",** is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

City Council Calendar
2008

January 2008

2nd	Council Meeting (special)*
8th	Council Meeting (regular)
15th	NO MEETING
22nd	Council Meeting (regular)
29th	NO MEETING – 5th Tuesday

February 2008

5th	Council Meeting (regular)
12th	Council Meeting (regular)
19th	NO MEETING
26th	Council Meeting (regular)

March 2008

4th	Council Meeting (regular)
11th	Council Meeting (regular)
18th	NO MEETING
25th	CANCELLED**

April 2008

1st	Council Meeting (regular)
8th	Council Meeting (regular)
15th	NO MEETING
22nd	Council Meeting (regular)
29th	NO MEETING – 5th Tuesday

May 2008

6th	Council Meeting (regular)
13th	Council Meeting (regular)
20th	NO MEETING
27th	Council Meeting (regular)

June 2008

3rd	Council Meeting (regular)
10th	Council Meeting (regular)
17th	NO MEETING
24th	Council Meeting (regular)

July 2008

1st	Council Meeting (regular)
8th	Council Meeting (regular)
15th	NO MEETING
22nd	NO MEETING
29th	NO MEETING – 5th Tuesday

August 2008

6th	Council Meeting (special)***
12th	Council Meeting (regular)
19th	NO MEETING
26th	NO MEETING

September 2008

2nd	Council Meeting (regular)
9th	Council Meeting (regular)
16th	NO MEETING
23rd	Council Meeting (regular)
30th	NO MEETING – 5th Tuesday

October 2008

7th	Council Meeting (regular)
14th	Council Meeting (regular)
21st	NO MEETING
28th	Council Meeting (regular)

November 2008

5th	Council Meeting (special)****
12th	Council Meeting (special)*****
18th	NO MEETING
25th	Council Meeting (regular)

December 2008

2nd	Council Meeting (regular)
9th	Council Meeting (regular)
16th	CANCELLED per MMC 2-1.01
23rd	CANCELLED per MMC 2-1.01
30th	CANCELLED per MMC 2-1.01

*January 2nd Wednesday Meeting due to holiday on January 1st
**March 25th due to Spring Break
***August 6th Wednesday Meeting due to National Night Out on August 5th
****November 5th Wednesday Meeting due to Election Day on November 4th
*****November 12th Wednesday Meeting due to Veterans Day on November 11th

Print

MODESTO CITY COUNCIL
RESOLUTION NO: 2007-733

A RESOLUTION ACCEPTING THE ANNUAL REPORT FOR THE FISCAL YEAR ENDING JUNE 30, 2007 FOR THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO

WHEREAS, pursuant to Health & Safety Code Section 33080, the Agency is required to submit prior to December 31st of each calendar year an Annual Report to the State Controller containing the following documents:

1. State Controller's Report
2. Housing and Community Development Report
3. Blight Progress Report
4. Loan Report
5. Property Report
6. Statement of Indebtedness

which are attached hereto as **Exhibit "A"**, and made a part hereof by this reference, and

WHEREAS, pursuant to Health & Safety Code Section 33080, the Agency is required to present the Annual Report to its legislative body, and

WHEREAS, the legislative body is defined in Health & Safety Code Section 33007 as the City Council, and

WHEREAS, this Annual Report was approved by the City Council at its regular meeting on December 12, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Annual Report for the Redevelopment Agency of the City of Modesto for the Fiscal Year ending June 30, 2007 is hereby accepted.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 12th day of December, 2007, by Council Member Keating, who moved its adoption, which motion being duly seconded by Council Member 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: _____
STEPHANIE LOPEZ, Acting City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

DRAFT

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

General Information

Fiscal Year: 2007

Members of the Governing Body

	Last Name	First Name	Middle Initial
Chairperson	Ridenour	Jim	
Member	Dunbar	Bob	
Member	Hawn	Brad	
Member	Keating	Janice	
Member	Marsh	Garrad	
Member	O'Bryant	Will	
Member	Olsen	Kristin	
Member			
Member			
Member			

Agency Officials

	Last Name	First Name	Middle Initial	Phone
Executive Director	Britton	George		(209) 577-5221
Fiscal Officer	Padilla	Wayne		(209) 577-5371
Secretary	Morris	Jean		(209) 577-5398

Report Prepared By

	Report Prepared By	Independent Auditor
Firm Name		Maze & Associates
Last	Fraser	Meyer
First	Donald	Amy
Middle Initial	J	
Street	225 Holmfirth Court	3478 Buskirk Ave., Suite 215
City	Roseville	Pleasanton
State	CA	CA
Zip Code	95661-	94523-
Phone	(916) 791-8958	(925) 930-0902

Mailing Address

Street 1: P.O. Box 642

Street 2:

City: Modesto State: CA Zip: 95354-

Phone: (209) 571-5566 ☒ Is Address Changed?

ATTACHMENT 1

DRAFT

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Achievement Information (Unaudited)

Fiscal Year 2007

Indicate Only Those Achievements Completed During the Fiscal Year of this Report as a Direct Result of the Activities of the Redevelopment Agency.

Please provide a description of the agency's activities/accomplishments during the past year.

(Please be specific, as this information will be the basis for possible inclusion in the publication.)

Activity Report

RDA Master Plan & EIR: The Master Plan and Environmental Impact Report (EIR) are being updated and will provide policy guidelines and goals for land uses and project concepts. An administrative draft of the Master Plan has received great public input through a series of public meetings. The approval of the Master Plan and EIR update should be completed in 2007-08.

Gallo Center for the Arts: Construction is underway on the center's 1,200 seat theatre, 400 seat theatre and art gallery. The project will receive RDA assistance by way of street, streetscape and traffic signal improvements. Completion is anticipated in late 2007.

Kansas Woodland Business Park: The environmental, traffic and water studies and assessments are ongoing for the 45 acre brownfield parcel. The subdivision map and EIR are in process.

17th & G Tower Park Affordable Housing: The RDA negotiated a purchase agreement with the City for a decommissioned park for the development of an affordable housing project. The project should be complete and available to the public by late 2008.

10th & H Mixed-Use: A mixed-use project including housing, parking, hotel and retail has an Exclusive Negotiating Agreement to construct the development on an RDA owned parking lot. An MOU was completed in 2007 and additional studies and analysis will begin in 2007-08. Construction should be complete by 2009.

Square Footage Completed

Enter the amount of square footage completed this year by building type and segregated by new or rehabilitated construction.

	New Construction	Rehabilitated
Commercial Buildings		
Industrial Buildings		
Public Buildings		
Other Buildings		
Total Square Footage	0	0

Enter the Number of Jobs Created from the Activities of the Agency

Types Completed

A=Utilities B=Recreation C=Landscaping D=Sewer/ Storm E=Streets/ Roads F=Bus/Transit

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Achievement Information (Unaudited)

Affordable Housing: The Agency is working on two housing projects that could create up to 260 new units.

Renaissance Office Project: The Agency entered into an OPA on the Project in 2002 that is now nearing completion.

Streetscape Plan: The Agency completed the design for a streetscape plan on 10th Street at I Street in 2006-07.

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Audit Information

Fiscal Year 2007

Was the Report Prepared from Audited Financial Data, and Did You Submit a Copy of the Audit?	Yes	If compliance opinion includes exceptions, state the areas of non-compliance, and describe the agency's efforts to correct.
Indicate Financial Audit Opinion	Unqualified	
If Financial Audit is not yet Completed, What is the Expected Completion Date?		
If the Audit Opinion was Other than Unqualified, State Briefly the Reason Given		
Was a Compliance Audit Performed in Accordance with Health and Safety Code Section 33080.1 and the State Controller's Guidelines for Compliance Audits, and Did You Submit a Copy of the Audit?	Yes	
Indicate Compliance Audit Opinion	Unqualified	
If Compliance Audit is not yet Completed, What is the Expected Completion Date?		

Modesto Redevelopment Agency
Redevelopment Agencies Financial Transactions Report

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Project Area Report

Fiscal Year 2007 | Project Area Name: Community Center Project Area

Please Provide a Brief Description of the Activities for this Project Area During the Reporting Year.

Activity Report

Forwarded from Prior Year ?	[redacted]
Enter Code for Type of Project Area Report	P

P = Standard Project Area Report
L = Low and Moderate Income Housing Fund
O = Other Miscellaneous Funds or Programs
A = Administrative Fund
M = Mortgage Revenue Bond Program
S = Proposed (Survey) Project Area

Does the Plan Include Tax Increment Provisions?	Yes
Date Project Area was Established *(MM-DD-YY)*	7/6/1982
Most Recent Date Project Area was Amended	11/5/1991
Did this Amendment Add New Territory?	Yes
Most Recent Date Project Area was Merged	
Will this Project Area be Carried Forward to Next Year?	Yes
Established Time Limit :	
Repayment of Indebtedness *(Year Only)*	2041
Effectiveness of Plan *(Year Only)*	2022
New Indebtedness *(Year Only)*	2011
Size of Project Area in Acres	2,000
Percentage of Land Vacant at the Inception of the Project Area *Health and Safety Code Section 33320.1 (xx.x%)*	4.5
Percentage of Land Developed at the Inception of the Project Area *Health and Safety Code Section 33320.1 (xx.x%)*	95.5
Objectives of the Project Area as Set Forth in the Project Area Plan *(Enter the Appropriate Code(s) in Sequence as Shown)*	RICPO

R = Residential I = Industrial C = Commercial P = Public O = Other

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Assessed Valuation Data

Fiscal Year 2007

Project Area Name	Community Center Project Area
Frozen Base Assessed Valuation	561,273,363
Increment Assessed Valuation	504,909,004
Total Assessed Valuation	1,066,182,367

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Pass-Through / School District Assistance

Fiscal Year 2007

Project Area Name Community Center Project Area

Amounts Paid To Taxing Agencies Pursuant To:	Tax Increment Pass Through Detail				Other Payments	
	H & S Code Section 33401	H & S Code Section 33676	H & S Code Section 33607	Total	H & S Code Section 33445	H & S Code Section 33445.5
County				$0		
Cities				$0		
School Districts	521,631			$521,631		
Community College District	76,506			$76,506		
Special Districts				$0		
Total Paid to Taxing Agencies	$598,137	$0	$0	$598,137	$0	$0
Net Amount to Agency				$4,705,382		
Gross Tax Increment Generated				5,303,519		

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Summary of the Statement of Indebtedness - Project Area

Fiscal Year	2007
Project Area Name	Community Center Project Area
Tax Allocation Bond Debt	
Revenue Bonds	65,912,872
Other Long Term Debt	405,000
City/County Debt	64,199,152
Low and Moderate Income Housing Fund	59,654,015
Other	110,078,667
Total	$300,249,706
Available Revenues	1,979,631
Net Tax Increment Requirements	$298,270,075

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

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Agency Long-Term Debt

Fiscal Year 2007

Project Area Name Community Center Project Area

Forward from Prior Year	
Bond Type	Certificates of Participation
Year of Authorization	1993
Principal Amount Authorized	27,225,000
Principal Amount Issued	27,225,000
Purpose of Issue	Community Center
Maturity Date Beginning Year	1993
Maturity Date Ending Year	2023
Principal Amount Unmatured Beginning of Fiscal Year	$21,655,000
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	835,000
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	$20,820,000
Principal Amount In Default	
Interest In Default	

Bond Types Allowed:

Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US;State; Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation; Other

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Agency Long-Term Debt

Fiscal Year	2007
Project Area Name	Community Center Project Area

Forward from Prior Year	Yes
Bond Type	Loans
Year of Authorization	2003
Principal Amount Authorized	405,000
Principal Amount Issued	405,000
Purpose of Issue	Economic Development
Maturity Date Beginning Year	2008
Maturity Date Ending Year	2015
Principal Amount Unmatured Beginning of Fiscal Year	$405,000
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	$405,000
Principal Amount In Default	
Interest In Default	

Bond Types Allowed:

Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US;State; Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation; Other

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Agency Long-Term Debt

Fiscal Year 2007

Project Area Name Community Center Project Area

Forward from Prior Year	Yes
Bond Type	Revenue Bonds
Year of Authorization	1998
Principal Amount Authorized	18,490,000
Principal Amount Issued	18,490,000
Purpose of Issue	10th Street Place Project
Maturity Date Beginning Year	1998
Maturity Date Ending Year	2033
Principal Amount Unmatured Beginning of Fiscal Year	$18,395,000
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	80,000
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	$18,315,000
Principal Amount In Default	
Interest In Default	

Bond Types Allowed:

Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US;State; Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation; Other

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Revenues

Fiscal Year 2007

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	Total
Tax Increment Gross *(Include All Apportionments)*	1,288,000	2,954,815	1,060,704		$5,303,519
Special Supplemental Subvention					$0
Property Assessments					$0
Sales and Use Tax					$0
Transient Occupancy Tax					$0
Interest Income	11,425	351,156	133,124		$495,705
Rental Income					$0
Lease Income					$0
Sale of Real Estate					$0
Gain on Land Held for Resale					$0
Federal Grants					$0
Grants from Other Agencies		2,619,052			$2,619,052
Bond Administrative Fees					$0
Other Revenues	20,288	69,971	50,400		$140,659
Total Revenues	$1,319,713	$5,994,994	$1,244,228	$0	$8,558,935

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year 2007

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Administration Costs	157,133	93,087	8,000		$258,220
Professional Services	229,540				$229,540
Planning, Survey, and Design	115,323		82,404		$197,727
Real Estate Purchases					$0
Acquisition Expense					$0
Operation of Acquired Property			14,513		$14,513
Relocation Costs					$0
Relocation Payments					$0
Site Clearance Costs					$0
Project Improvement / Construction Costs					$0
Disposal Costs					$0
Loss on Disposition of Land Held for Resale					$0

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year 2007

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Decline in Value of Land Held for Resale					$0
Rehabilitation Costs					$0
Rehabilitation Grants					$0
Interest Expense		2,025,131			$2,025,131
Fixed Asset Acquisitions					$0
Subsidies to Low and Moderate Income Housing					$0
Debt Issuance Costs					$0
Other Expenditures Including Pass-Through Payment(s)		598,137			$598,137
Debt Principal Payments:					
Tax Allocation Bonds and Notes					$0
Revenue Bonds, Certificates of Participation, Financing Authority Bonds		915,000			$915,000
City/County Advances and Loans					$0
All Other Long-Term Debt					$0
Total Expenditures	$501,996	$3,631,355	$104,917	$0	$4,238,268
Excess (Deficiency) Revenues over (under) Expenditures	$817,717	$2,363,639	$1,139,311	$0	$4,320,667

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year 2007

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Proceeds of Long-Term Debt					$0
Proceeds of Refunding Bonds					$0
Payment to Refunded Bond Escrow Agent					$0
Advances from City/County					$0
Sale of Fixed Assets					$0
Miscellaneous Financing Sources (Uses)		-2,619,052			($2,619,052)
Operating Transfers In					$0
Tax Increment Transfers In					$0
Operating Transfers Out					$0
Tax Increment Transfers Out					$0
(To the Low and Moderate Income Housing Fund)					
Total Other Financing Sources (Uses)	$0	($2,619,052)	$0	$0	($2,619,052)

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year 2007

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Excess (Deficiency) of Revenues and Other Financing Sources over Expenditures and Other Financing Uses	$817,717	($255,413)	$1,139,311	$0	$1,701,615
Equity, Beginning of Period	$1,903,208	$2,956,560	$5,957,965	$0	$10,817,733
Prior Period Adjustments					$0
Residual Equity Transfers					$0
Equity, End of Period	$2,720,925	$2,701,147	$7,097,276	$0	$12,519,348

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Assets and Other Debits

Fiscal Year 2007	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Assets and Other Debits							
Cash and Imprest Cash	2,718,388	931,176	5,370,414				$9,019,978
Cash with Fiscal Agent		1,981,634					$1,981,634
Tax Increments Receivable		372,806					$372,806
Accounts Receivable							$0
Accrued Interest Receivable	6,850	13,668	18,172				$38,690
Loans Receivable			929,016				$929,016
Contracts Receivable							$0
Lease Payments Receivable					39,540,000		$39,540,000
Unearned Finance Charge							$0
Due from Capital Projects Fund							$0
Due from Debt Service Fund							$0
Due from Low/Moderate Income Housing Fund							$0
Due from Special Revenue/Other Funds							$0

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Assets and Other Debits

Fiscal Year 2007	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Investments							$0
Other Assets							$0
Investments: Land Held for Resale			780,000				$780,000
Allowance for Decline In Value of Land Held for Resale							$0
Fixed Assets: Land, Structures, and Improvements						50,000	$50,000
Equipment						1,630,536	$1,630,536
Amount Available In Debt Service Fund							$0
Amount to be Provided for Payment of Long-Term Debt							$0
Total Assets and Other Debits	$2,725,238	$3,299,284	$7,097,602	$0	$39,540,000	$1,680,536	$54,342,660

(Must Equal Total Liabilities, Other Credits, and Equities)

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Liabilities and Other Credits

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Fiscal Year 2007	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Liabilities and Other Credits							
Accounts Payable	4,313	598,137	326				$602,776
Interest Payable							$0
Tax Anticipation Notes Payable							$0
Loans Payable							$0
Other Liabilities							$0
Due to Capital Projects Fund							$0
Due to Debt Service Fund							$0
Due to Low/Moderate Income Housing Fund							$0
Due to Special Revenue/Other Funds							$0
Tax Allocation Bonds Payable							$0
Lease Revenue, Certificates of Participation Payable, Financing Authority Bonds					39,135,000		$39,135,000
All Other Long-Term Debt					405,000		$405,000
Total Liabilities and Other Credits	$4,313	$598,137	$326	$0	$39,540,000		$40,142,776

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

DRAFT

Balance Sheet - Liabilities and Other Credits

Fiscal Year 2007	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Equities							
Investment In General Fixed Assets						1,680,536	$1,680,536
Fund Balance Reserved			7,097,276				$7,097,276
Fund Balance Unreserved-Designated	2,720,925	2,701,147					$5,422,072
Fund Balance Unreserved-Undesignated							$0
Total Equities	$2,720,925	$2,701,147	$7,097,276	$0		$1,680,536	$14,199,884
Total Liabilities, Other Credits, and Equities	$2,725,238	$3,299,284	$7,097,602	$0	$39,540,000	$1,680,536	$54,342,660

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Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Summary, Combined Transfers In/Out

Fiscal Year	2007
Operating Transfers In	$0
Tax Increment Transfers In	$0
Operating Transfers Out	$0
Tax Increment Transfers Out	$0

California Redevelopment Agencies- Fiscal Year 2006/2007
Project Area Contributions to Low and Moderate Income Housing Fund
Sch A Project Area Financial Information

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Agency MODESTO RDA
Address 1010 Tenth Street
PO Box 642
Modesto CA 95353

Project Area MODESTO PROJECT

Type: Inside Project Area *Status:* Active

Plan Adoption: 1987 *Plan Expiration Year:* 2031

Gross Tax Increment	Calculated Deposit	Amount Allocated	Amount Exempted	Amount Deferred	Total Deposited	%	Cumulative Def.
$5,303,519	$1,060,704	$1,060,704	$0	$0	$1,060,704	20.00%	$0

Repayment	$0
Category	
Interest Income	$183,524
Total Additional Revenue	$183,524
Total Housing Fund Deposits for Project Area	$1,244,228

Agency Totals For All Project Areas:

Gross Tax Increment	Calculated Deposit	Amount Allocated	Amount Exempted	Amount Deferred	Total Deposited	%	Cumulative Def.
$5,303,519	$1,060,703.8	$1,060,704	$0	$0	$1,060,704	20%	$0

Total Additional Revenue from Project Areas	$183,524
Total Deferral Repayments.	$0
Total Deposit to Housing Fund from Project Areas.	$1,244,228

ATTACHMENT 2

California Redevelopment Agencies-Fiscal Year 2006/2007
Project Area Contributions to Low and Moderate Income Housing Funds
Sch A Project Area Summary Report
MODESTO RDA

Project Area	100% of Tax Increment	20% Set Aside Requirement	Tax Increment Allocated	Amount Exempted	Deferral	Tax Incr. Deposited to Hsng Fund	Percent of Tax Incr Dep	Repayment Deferrals	Other Income	Total Deposited to Housing
MODESTO PROJECT	$5,303,519	$1,060,704	$1,060,704	$0	$0	$1,060,704	20.00%	$0	$183,524	$1,244,228
Agency Totals:	$5,303,519	$1,060,704	$1,060,704	$0	$0	$1,060,704	20.00%	$0	$183,524	$1,244,228

Note: Print this report in Landscape Orientation (Use the Print Icon just above, then Properties then Landscape)

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12/03/07

California Redevelopment Agencies - Fiscal Year 2006/2007
Status of Low and Moderate Income Housing Funds
Sch C Agency Financial Summary
MODESTO RDA

Adjusted Beginning Balance	Project Area Receipts	Agency Other Revenue	Total Expenses	Net Resources Available	Other Housing Fund Assets	Total Housing Fund Assets	Encum-brances	* Unen-cumbered Balance	Unen-cumbered Designated	Unen-cumbered Not Dsgntd
$5,957,965	$1,244,228	$0	$104,917	$7,097,276	$0	$7,097,276	$0	$7,097,276	$0	$7,097,276

Expenses	Planning and Administration Costs	Total
2006/2007	$104,917	$104,917

*The Unencumbered Balance is equal to Net Resources Available minus Encumbrances

Note: Print this report in Landscape Orientation (Use the Print Icon just above, then Properties then Landscape)

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12/03/07

California Redevelopment Agencies - Fiscal Year 2006/2007
Status of Low and Moderate Income Housing Funds
Sch C Agency Financial and Program Detail
MODESTO RDA

DRAFT

	Beginning Balance	$5,957,965
	Adjustment to Beginning Balance	$0
	Adjusted Beginning Balance	$5,957,965
Total Tax Increment From PA(s) $1,060,704	Total Receipts from PA(s)	$1,244,228
	Other Revenues not reported on Schedule A	$0
	Sum of Beginning Balance and Revenues	$7,202,193

Expenditure

Item	Subitem	Amount	Remark
Planning and Administration Costs			
Administration Costs		$98,209	
Planning, Survey/Design		$6,609	
Professional Services		$99	
	Subtotal of Planning and Administration Costs	$104,917	
	Total Expenditures	$104,917	

Net Resources Available	$7,097,276
Indebtedness For Setasides Deferred	$0

Other Housing Fund Assets

Category	Amount	Remark
Total Other Housing Fund Assets		

Total Fund Equity	$7,097,276

2002/2003	$539706			
2003/2004	$661003	sum of 4 Previous Years' Tax Increment for 2006/2007	Prior Year Ending Unencum	Excess Surplus for 2006/2007
2004/2005	$832875			
2005/2006	$946636	$2980220	$5,177,965	$2,197,745

Sum of Current and 3 Previous Years' Tax Increments	$3,501,218
Adjusted Balance	$7,097,276
Excess Surplus for next year	$3,596,058
Net Resources Available	$7,097,276

12/03/07

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Unencumbered Designated	$0
Unencumbered Undesignated	$7,097,276
Total Encumbrances	$0
Unencumbered Balance	$7,097,276
Unencumbered Balance Adjusted for Debt Proceeds	$0
Unencumbered Balance Adjusted for Land Sales	$0
Excess Surplus Expenditure Plan	No
Excess Surplus Plan Adoption Date	

Site Improvement Activities Benefiting Households

Income Level	Low	Very Low	Moderate	Total

Land Held for Future Development

Site Name	Num Of Acres	Zoning	Purchase Date	Estimated Start Date	Remark

Use of the Housing Fund to Assist Mortgagors

Income Adjustment Factors

Requirements Completed

Home $

Hope $

Non Housing Redevelopment Funds Usage

Resource Needs

LMIHF Deposits/Withdrawls

Document Name	Document Date	Custodian Name	Custodian Phone	Copy Source
Fund 9060 OLGL	30-JUN-07	Barrett R. Newlin	(209) 577-5373	P.O. Box 642 Modesto, CA 95353

Achievements

Description

FY 2007
MODESTO REDEVELOPMENT AGENCY

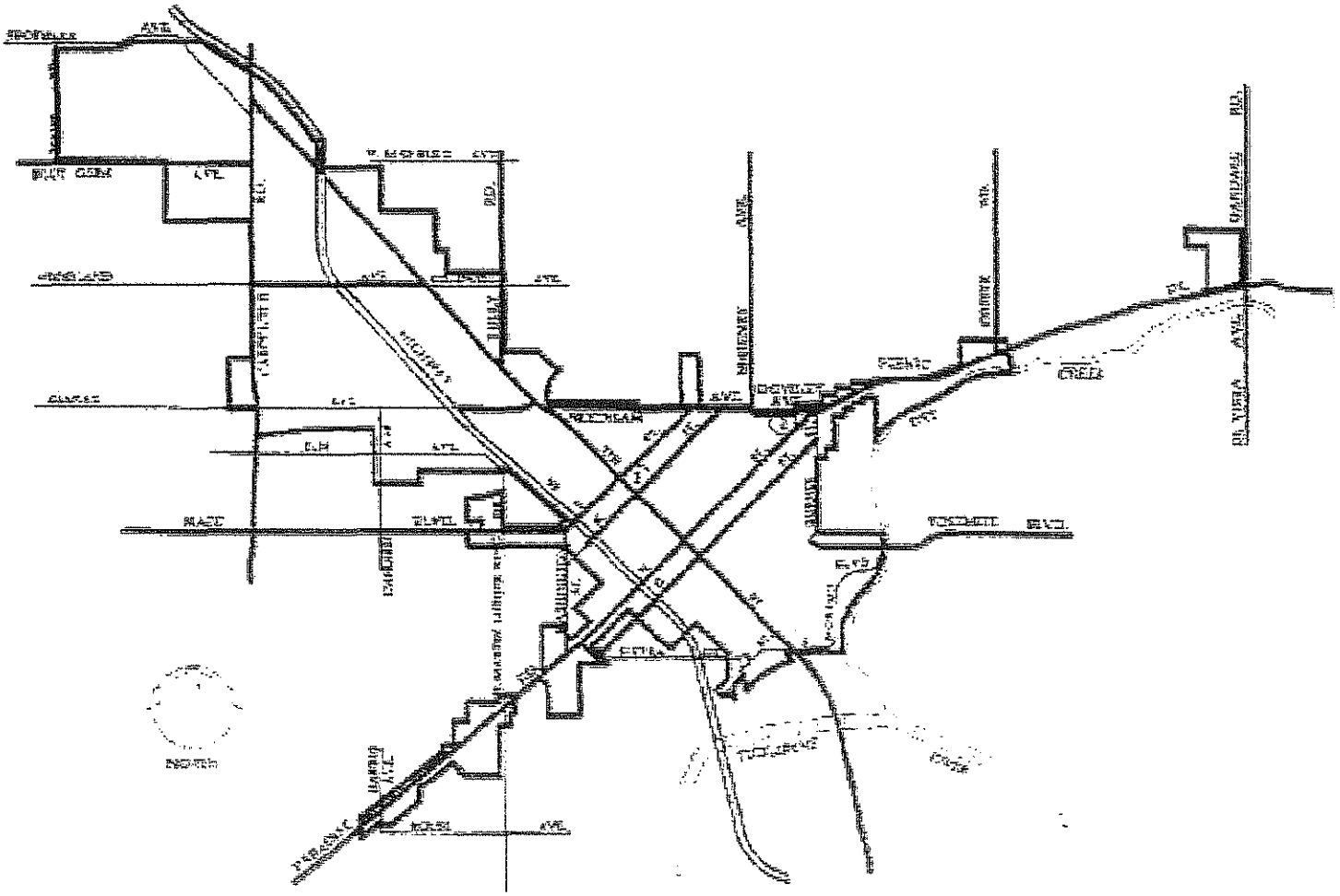
HEALTH AND SAFETY CODE §33080.1

- *ALLEVIATION OF BLIGHT*
- *LOAN DEFAULT REPORT*
- *PROPERTY LISTING*

ATTACHMENT 3, 4, 5

MODESTO REDEVELOPMENT AGENCY
PROJECT AREA

2000 Acres (Est.)



I. HEALTH AND SAFETY CODE §33080.1(d)

ALLEVIATION OF BLIGHT

The Modesto Redevelopment Agency's goal is to stimulate new public and private investment in order to overcome the problems that have been created in past decades. Through new investment, both the physical and social environment of the project area will be improved. Private investment, with the assistance of the Agency, will help to:

- Overcome blight created by deteriorated and obsolete buildings
- Stabilize land uses
- Provide needed public parking
- Create new parcels amenable to modern development.

Employment opportunities, both in the short and long term, will help to overcome problems of poverty not only in the Project Area, but also in the City as a whole. Increased employment opportunities, appropriate project design and, most importantly, higher levels of activity in the Project Area --- especially in the evenings --- will decrease the crime rates.

During FY 2007, the Redevelopment Agency of the City of Modesto completed the following actions to implement the objectives of the Implementation Plan in alleviating blight within the Project Area. (Note: The Agency's Implementation Plan was approved in December 2005 for the period of 2005-2009.)

Vision

- Modesto's parks, plazas, and greenways contribute to a public realm that provides an attractive, inviting "Oasis in the Valley."
- Modesto's unique history and character are preserved to make the city a pleasant place to live, and are actively promoted to attract new investment.
- The downtown is a vibrant mixed-use area with an established residential element.
- Transportation opportunities are multi-modal and well-connected throughout the Redevelopment Area, city, and region

Goals

Goal 1
Create a unique and recognizable image for Modesto and use it to strenuously promote the City.

Agency Actions:

Project: Update to the Agency Master Plan and Environmental Impact Report
Agency Expenditure: $425,000
Status: Final Administrative Draft Completed: July 2006
Environmental Impact Report – Summer 2007

In November 1991, the Redevelopment Agency (RDA) adopted the Amended Project Area and the Redevelopment Plan for a Project Area of approximately 2000 acres. As a part of this Project Area adoption, an Environmental Impact Report (EIR) was approved in accordance with the State law. Subsequent to these actions, in 1994, a RDA Master Plan was also adopted to implement the

goals and objectives of the RDA Plan. The purpose of this Master Plan is to provide a policy guideline document to identify specific types of land uses that the Agency should encourage and promote within the Project Area. As a continuing part of this long-term strategy, the RDA staff - in consultation with the RDA General Counsel - has determined that both the RDA EIR and Master Plan should be updated. Considering the dramatic changes that have taken place since the early 1990's, both documents are out of date and must be revised to reflect the current conditions and to ensure legal compliance. For the entire RDA Master Plan Update, the physical improvement strategies includes:

- Land Use policy direction, including housing, business parks, incubator areas, Tuolumne River Regional Park Master Planning, historic preservation and commercial corridors
- Building conceptual design for catalyst sites and opportunity sites
- Circulation, including pedestrian connections
- Streetscape character and urban design
- Focal points and gateways

Project: Opportunity Map of the Redevelopment Project Area
Agency Expenditure: $1500
Status: Completed and Distributed to Owners and Developers
The Opportunity Map furthers the objectives of the RDA by identifying those property owners within the Project Area who are interested in either selling their parcel or working with a private developer to develop their property into either a commercial, industrial or residential use. Staff sent letters to all property owners within the RDA Project Area inquiring whether they would be interested in development or sale and created a list of 230 willing owners. The Opportunity Map has been sent to all commercial realtors in Modesto, as well as many in the Bay Area. Also, the Map will be provided to all property owners within the Project Area. Finally, the Map is included as part of our standard informational packet to all businesses looking to relocate or expand in Modesto.

Goal 2
Promote the economic viability of the Redevelopment Area by attracting new development.

Agency Actions:

Project: Kansas Woodland Business Park Development
Agency Expenditure: $2,000,000
Status: Fall 2007
Beginning in January 2000 and in conjunction with development of the Business Park Development Program, staff has been working with the FMC Corporation and adjacent property owners located to the north of Kansas Avenue and directly adjacent to State Route 99 to determine the interest in, and feasibility of the development of a commercial/retail/light industrial business park.

Towards this end, the Agency formed a multi-disciplinary development team comprised of in-house staff and consultants to work on the proposed Business Park. On November 6, 2002, the Agency approved the terms and conditions of a Purchase Option for the 45-acre FMC property which is a contaminated brownfield owned by the FMC Corporation. In summary, FMC and the Agency have agreed to the following:

1. Purchase price will be $1,000,000 plus five percent (5%) of any amount received by the City upon sale of the Property in excess of $1,000,000

2. Agency has paid an option payment of $50,000 concurrent with the completion of the Property Option Agreement in consideration for the exclusive right to purchase the property
3. When the Agency elects to exercise the Property Option, the Agency will pay an Exercise Option payment of $50,000. Both option payments (Total of $100,000) will be applied to the purchase price.

Since January 2000, the Agency has expended a total of $1,000,000 in staff costs to complete this priority project. Staff is working concurrently on the following critical path items:

- Developer Agreement (DA) and revisions to the Property Option Agreement to develop the business park adjacent to State Route 99
- Completion of the Comprehensive Remedial Action Plan for soils and groundwater for remediation of the brownfield
- Completion of the Specific Plan for development of the Business Park
- Completion of the Tentative Subdivision Map for the Business Park
- Completion of the Programmatic Environmental Impact Report for the Specific Plan

Project: Renaissance Office Project - 12th Street & I Street
Agency Expenditure: $132,000 Tax Increment rebate over 15 years
Status: Completed – June 2006
The Agency entered into an Owner Participation Agreement (OPA) with Westland Development in September 2002. The OPA included the following conditions:

1. The City sold a 44-space City parking lot to Stanislaus County for $245,000
2. Westland entered into an agreement with Stanislaus County wherein the County will construct a 90,000 square foot building and the ownership will be divided between three entities: (1) County – 50%; (2) StanCERA – 17% (3) Westland – 33%
3. There is an adjoining parking garage, constructed and owned by the County, wherein approximately 50 public spaces are replacing the 44-space public parking lot
4. Over 15 years, the Agency will rebate tax increment received from the private sector portion of the building for a total of $132,000 over 15 years. This rebate will be used to offset the parking payments to the County for the public spaces.
5. The Renaissance Office Project is nearing completion and the Certificate of Completion is expected to be issued in FY 2008.

Goal 3
Implement higher density, mixed-use development to create a balanced, vibrant downtown and active neighborhood centers.

Agency Actions:

Project: Gallo Center for the Arts
Agency Expenditure: $602,000
Status: Estimated Completion - Fall 2007
The Gallo Center for the Arts is a $31 Million project under construction in the block between 10th and 11th Streets and H and I Streets in downtown Modesto. The center will feature a 1,200-seat theater, a 400-seat theater and art gallery. Though construction will be primarily funded by contributions from the community and Stanislaus County, the Agency has been asked to contribute funds for construction/replacement of such public improvements as deteriorated curb, sidewalks and streetlights, new street trees and street reconstruction.

Pursuant to Community Redevelopment Law, funds can only be provided if the mandatory legal findings are made. The Agency continues to review this project to determine if funding is appropriate and legal according to the mandatory findings.

Project: Mixed-Use Project – 10th Street & H Street
Agency Expenditure: $630,000 in land value
Status: Memorandum of Understanding with Centerra Capital – Adopted: May 22, 2007
A mixed-use development is an excellent addition to the Downtown environment. The Agency owns four (4) parcels of land at the southwest corner of 10th & H Streets in Modesto. The Agency Board has directed staff to identify a public-private partnership for the development of a high-quality Mixed-Use Project on this 31,500 square-foot Project Site. After completing the Request for Proposal process, the Agency entered into an Exclusive Negotiating Agreement (ENA) with Team Modesto, a local development group, on August 3, 2005 for development of this project. The ENA produced the following proposed land use:

a. Two levels of below ground parking (164 spaces)
b. Ground level: Retail (25,000 sf)
c. Floors 2-3: Parking (164 spaces)
d. Floors 4-6: Full Service Hotel (125-150 rooms)
e. Floors 7-8: One and two story townhomes (22 units @ 1200 sf (approx.) each) with 5,000 sf of two level open gardens

The Agency and Centerra Capital completed a Memorandum of Understanding which was adopted on May 22, 2007 which includes the following tasks:

1. Proposed project design, land uses, parameters and pre-planning
2. Various studies, including environmental analysis pursuant to CEQA and the legal contracts related to these studies
3. Requirements for the mixed-use development, including the Site development schedule
4. Terms of the parking agreement for public parking to be provided on the Site
5. Land assembly to acquire all parcels for Option 2

Staff expects the approval of the CEQA review and adoption of the Disposition and Development Agreement by January 2008. The construction is estimated to take 18-24 months.

Goal 4
Provide the rationale and impetus for the City to update its development standards to support the goals identified in this document.

Agency Actions:

The Redevelopment Advisory Commission is starting the process to revise the development standards to implement form-based zoning. This will mirror the Agency's goals of encouraging a diverse inventory of mixed-use zones throughout the Project Area and facilitating the developer's permit process and requirements. The Citizens Redevelopment Advisory Commission is including this item on their agenda to accomplish two initial phases: (1) Join the Planning Commission in an educational seminar for the Agency members covering the purpose and procedures of form-based codes; and (2) Create a sub-committee to meet with City planning staff and representatives from the Planning Commission to review existing zoning codes and prepare the listing of those codes that must be revised to follow the new standards.

Goal 5
Develop a variety of housing types in the Redevelopment Area, including affordable housing, particularly in the downtown, to act as a catalyst for other types of development.

Agency Actions:

Project: Affordable Housing Project – N. 9th Street
Estimated Agency Expenditure: $6,500,000
Status: Agency to enter into Memorandum of Understanding for project development
Current Fiscal Status of Housing Set-aside Funding: $7,079,031 (as of July 1, 2007)
Agency has been working with a property owner and developer to consider a proposed affordable housing project on the east side of N. 9th Street, just north of the Carver Road intersection. During FY 2008, the Agency will consider a Memorandum of Understanding (MOU) between the Agency and the property owner. The MOU will include the following tasks:

1. Environmental (CEQA) evaluation
2. Negotiation of Owner Participation Agreement, including final financial proposed terms and conditions for possible Agency assistance
3. Preliminary Design and Land Assembly
4. Land Use Review & Site Plan for Planned Development

The proposed site for this project demonstrates the following advantages to the Agency:

1. Site is inside the RDA Project Area
2. Site is identified as a Catalyst Site in the RDA Master Plan
3. Site is surrounded on two sides with residential and a neighborhood shopping center, creating a good adjacent land use mix
4. Site is a County island that will be annexed as part of the project
5. Site is 6.5 acres which affords room for a significant number of apartment rentals

Staff expects the approval of the CEQA review and adoption of the Owner Participation Agreement by January 2008. The construction is estimated to take 18-24 months. Est. Number of Affordable Housing Units: 118 - 130

Project: Affordable Housing Project – Town Center – Roselle Ave & Belharbour Drive
Estimated Agency Expenditure: $400,000
Status: Agency to enter into Owner Participation Agreement for project development
Agency has been working with the property owner/developer (Stanislaus County Housing Authority) to assist in funding an affordable housing project on the northeast corner of Roselle Avenue and Belharbour Drive in the Village One area in east Modesto. During FY 2008, the Agency will consider an Owner Participation Agreement between the Agency and the property owner, Stanislaus County Housing Authority. Staff expects the approval of the Owner Participation Agreement by September 2007. The construction is estimated to take 18-24 months. Est. Number of Affordable Housing Units: 118 - 130

Project: Affordable Housing Project – 17th & G Streets
Agency Expenditure: TBD
Status: Agency owns site for possible affordable housing project
The Agency staff has worked closely with the staff from the Parks, Recreation and Neighborhoods Department to identify joint affordable housing projects. On May 10, 2005, the City Council declared the "Tower Park" parcel as surplus to the City's needs and directed staff to offer the parcel for sale in accordance with the Government Code. Tower Park is located at the

northwest corner of 17th & G Streets in Modesto. The Agency was notified of the parcel sale on May 16, 2005. The Agency completed negotiations with the City to acquire the Park site for affordable housing.

Escrow was opened and the funds were encumbered in June 2006 (FY 2006). Escrow closed during FY 2007 and the property was acquired by the Agency. The Agency staff considered several options for this site. The original goal was to expand the site to include the remainder of the block in order to design a mixed-use project, including affordable housing and retail uses. The additional land acquisition was not successful, leaving only the park site of less than an acre. The Agency continues to consider this site. The development of this site for affordable housing is dependent upon the potential for development of the N. 9th Street site.

Goal 6
Enhance the visual appeal of Modesto's public spaces by upgrading existing parks, plazas, and streets, and by creating new parks and plazas that offer public access.

Agency Actions:

Project: Tuolumne River Regional Park
Agency Expenditure: Expense Paid By Private Developers
The Tuolumne River is the foremost natural asset bordering in the Redevelopment Project Area. The City of Modesto has adopted a Master Plan for the development of this valuable open space. Bluff property overlooking the park should be investigated as a site for a regional educational and recreational facility oriented primarily to children and families.

Project: New private parks and plazas
Agency Expenditure: Expense Paid By Private Developers
As part of the implementation of the form-based zoning code, the Agency will be working with the City Planning Commission to include the development requirement for open space and plazas within all private developments in the Project Area. These open space areas will encourage pedestrian traffic and will also address the issue of building massing in the downtown.

Goal 7
Develop historic I and 10th Streets as an attractive, pedestrian-oriented zone. Create a clear sense of arrival at Modesto's downtown by enhancing the 6th and I Street Gateway and the intersection of I and 10th Streets.

Agency Actions:

Project: Streetscape Plan and Construction on 10th Street and I Street
Agency Expenditure: $300,000
Status: Estimated Completion – June 2008
In FY 2006, the Agency contracted with an architectural firm to design a conceptual streetscape plan for 10th Street and I Street. The next phase will be to complete construction plans for these two streets that will be used to construct the streetscape along designated frontages. In addition,

the Agency will be partnering with private landowners to encourage them to upgrade their street frontages in compliance with the new streetscape standard.

Project: Wayfinding Signage for the Downtown Area
Agency Expenditure: $100,000
Status: Estimated Completion – January 2006
The Agency provides $300,000 each year for use in Project Area Improvement and general street improvement projects. For FY 2006, the Agency used $100,000 of these funds to create the design, construction plans and installation of wayfinding signage for the downtown area. These signs were installed in January 2006 and additional funding will be provided for expansion of this wayfinding signage during FY 2008

Goal 8
Promote efficient automobile, bicycle, and pedestrian circulation and linkages into and through the Redevelopment Area.

Agency Actions:

Project: Wayfinding Signage for the Downtown Area
Agency Expenditure: $100,000
Status: Estimated Completion – January 2006
The Agency provides $300,000 each year for use in Project Area Improvement and general street improvement projects. For FY 2006, the Agency used $100,000 of these funds to create the design, construction plans and installation of wayfinding signage for the downtown area. These signs were installed in January 2006 and additional funding will be provided for expansion of this wayfinding signage FY 2008.

II. HEALTH AND SAFETY CODE §33080.1(e)

REPORT ON ALL LOANS IN DEFAULT

The Modesto Redevelopment Agency has no loans in excess of $50,000 that are in default from the previous fiscal year or that are not in compliance with the terms of the loan approved by the Agency.

III. HEALTH AND SAFETY CODE §33080.1(f)

PROPERTY LISTING

The Modesto Redevelopment Agency acquired the property at the intersection of 17th & G Streets for the purpose of an affordable housing project (APN: 106-06-02)

Property List:

	APN	Address	Street	City, State	Current use
1	105-37-32	11TH STREET	11TH ST	MODESTO, CA 95354-0000	Parking garage
2	105-37-33	1010 TENTH ST 1st FLOOR	1010 10TH ST	MODESTO, CA 95354	Retail parcel
3	105-37-34	1010 TENTH ST 1st FLOOR	10TH ST	MODESTO, CA 95354	Retail parcel
4	105-41-21	9TH STREET	9TH ST	MODESTO, CA 95354-0000	Parking garage
5	105-48-06	1125 9TH STREET	1125 9TH ST	MODESTO, CA 95354-0000	Parking garage
6	105-48-08	9TH STREET	9TH ST	MODESTO, CA 95354-0000	Centre Plaza Bridge
7	105-48-11	1150 9TH ST	1125 11TH ST	MODESTO, CA 95354-0000	Centre Plaza
8	106-42-01	10th Street & H Street	10TH Street	MODESTO, CA 95354-0000	Parking Lot
9	106-42-02	10th Street & H Street	10th Street	MODESTO, CA 95354-0000	Parking Lot
10	106-42-03	10th Street & H Street	10th Street	MODESTO, CA 95354-0000	Parking Lot
11	106-42-04	10th Street & H Street	10th Street	MODESTO, CA 95354-0000	Parking Lot
12	106-06-02	17th & G Street	17th Street	MODESTO, CA 95354-0000	Park Site

STATEMENT OF INDEBTEDNESS - CONSOLIDATED
FILED FOR THE 2007-08 TAX YEAR

Cover Page

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

Balances Carried Forward From:		Line	Current Total Outstanding Debt	Current Principal/Interest Due During Tax Year
Fiscal Period - Totals	(From Form A, Page 1 Totals)	(1)	$ 209,497,566.06	$ 3,111,000.00
(Optional) Post Fiscal Period - Totals	(From Form B Totals)	(2)	$ 0.00	$ 0.00
Grand Totals		(3)	$ 209,497,566.06	$ 3,111,000.00
Available Revenues From Calculation of Available Revenues, Line 7		(4)	$ 0.00	
Net Requirement		(5)	$ 209,497,566.06	

Consolidate on this form all of the data contained on Form A and B (including supplemental pages). Form A is to include all indebtedness entered into as of June 30 of the Fiscal Year. Form B may be filed at the option of the agency, and is to include indebtedness entered into post June 30 of the Fiscal Year, pursuant to Health and Safety Code Section 33675(c)(2). This is optional for each agency and is not a requirement for filing the Statement of indebtedness. The Reconciliation Statement is to include indebtedness from Form A only.

Certification of Chief Financial Officer:
Pursuant to Section 336775 (b) of the Health and Safety Code, I hereby certify that the above is a true and accurate Statement of Indebtedness for the above named agency.

M. Wayne Padilla — Name

Finance Director — Title

Signature

September 28, 2007 — Date

Rev 6/3/94

ATTACHMENT 6

STATEMENT OF INDEBTEDNESS
FILED FOR THE 2007-08 TAX YEAR

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

For Indebtedness Entered into as of June 30, 2007

Debt Identification	Original Data					Current	
	Date	Principal	Term	Interest Rate	Total Interest	Total Outstanding Debt	Principal/Interest Due During Tax Year
Pass through: (A) Y.C.C.D.	11/5/91	4,258,077.00	40 yrs.	n/a	n/a	7,226,665.56	80,000.00
Pass through: (B) Modesto City Schools	11/05/91	25,327,263.00	40 yrs.	n/a	n/a	43,150,449.38	465,000.00
Pass through: (C) County Office of Education	11/05/91	3,705,080.00	40 yrs.	n/a	n/a	6,277,523.49	70,000.00
Pass through: (D) Stanislaus County	11/05/91	29,150,160.00	40 yrs.	n/a	n/a	53,424,028.79	456,000.00
(E) Low-Mod Housing Set-aside	11/05/91	32,216,556.00	40 yrs.	n/a	n/a	41,899,513.21	1,140,000.00
Reimbursement Agreement - (F) MPF 1998 Lease Revenue Bonds	03/11/98	18,490,000.00	35 yrs.	4.00%-5.125%	25,171,753.00	35,248,596.63	900,000.00
Stanislaus Co. Economic Develop- (G) ment "Bank" - Kansas Ave BP	11/06/02	405,000.00	13 yrs.	none	none	405,000.00	
City of Modesto (H) All prior transfers now loans	06/30/03	12,570,277.00	open	7%	9,295,512.00	21,865,789.00	
(I)							
(J)							
Sub Total, This Page						$ 209,497,566.06	$ 3,111,000.00
Totals Forward From All Other Pages							
Grand Totals						$ 209,497,566.06	$ 3,111,000.00
Available Revenues From Calculation of Available Revenues						$ -	
Net Requirement						$ 209,497,566.06	

Purpose of Indebtedness:

(A) Agreement pursuant to H&S Code Section 33401

(B) Agreement pursuant to H&S Code Section 33401

(C) Agreement pursuant to H&S Code Section 33401

(D) Agreement pursuant to H&S Code Section 33401

(E) 20% Low-Mod Income Housing set-aside (new est.)

(F) Tenth Street Place project - site acquisition and construction, RDA share of Modesto Public Financing Authority 1998 Lease Revenue Bonds

(G) Planning costs re: the proposed Kansas Ave. Business Park

(H) Transfers/loans from City, per City Council/RDA 6/30/03

(I)

(J)

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

Tax Year 2007-08 | Reconciliation Dates: From July 1, 2006 To June 30, 2007

Debt Identification: SOI, page and line: Prior Yr	Debt Identification: SOI, page and line: Current Yr	Brief Description	A: Outstanding Debt All Beginning Indebtedness	B: Adjustments Increases (Attach Explanation)	C: Adjustments Decreases (Attach Explanation)	D: Amounts Paid Against Indebtedness, from: Tax Increment	E: Amounts Paid Against Indebtedness, from: Other Funds	F: Remaining Balance (A+B-C-D-E)
Pg 1 Line A	Pg 1 Line A	Pass through: Y.C.C.D.	7,303,171.48			76,505.92		7,226,665.56
Pg 1 Line B	Pg 1 Line B	Pass through: Modesto City Schools	43,605,510.57			455,061.19		43,150,449.38
Pg 1 Line C	Pg 1 Line C	Pass through: County Office of Education	6,344,093.58			66,570.09		6,277,523.49
Pg 1 Line D	Pg 1 Line D	Pass through: Stanislaus County	53,424,028.79					53,424,028.79
Pg 1 Line E	Pg 1 Line E	Low-Mod Housing Set-aside	41,934,028.76	Adj. to total debt / 959,067.83		993,583.38		41,899,513.21
Pg 1 Line F	Pg 1 Line F	Reimbursement Agreement - MPF 1998 Lease Revenue Bonds	36,242,362.63			918,221.41	75,544.59	35,248,596.63
Pg 1 Line G	Pg 1 Line G	Stanislaus Co. Economic Development "Bank" - Kansas Ave BP	405,000.00					405,000.00
Pg 1 Line H	Pg 1 Line H	City of Modesto All prior transfers now loans	20,411,948.00	interest added 1,453,841.00				21,865,789.00
TOTAL - THIS PAGE			209,670,143.81	2,412,908.83		2,509,941.99	75,544.59	209,497,566.06
TOTALS FORWARD				2,457,974.92		2,457,974.92		
GRAND TOTALS			$ 209,670,143.81	$ 4,870,883.75	$ -	$ 4,967,916.91	$ 75,544.59	$ 209,497,566.06

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt column. Use the page and line number that the indebtedness is listed on in each year as appropriate, and a brief description. Ignore any indebtedness fully repaid in the previous year, as it had a zero ending balance. All new indebtedness entered into since the previous SOI is to be listed below the previous indebtedness. Enter "new" in the "Prior Yr" page and line column for each new indebtedness.

Rev. 5/2/94

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

Tax Year 2007-08 | Reconciliation Dates: From July 1, 2006 To June 30, 2007

Debt Identification: SOI, page and line: Prior Yr	Debt Identification: SOI, page and line: Current Yr	Debt Identification: Brief Description	A: Outstanding Debt All Beginning Indebtedness	B: Adjustments Increases (Attach Explanation)	C: Adjustments Decreases (Attach Explanation)	D: Amounts Paid Against Indebtedness, from: Tax Increment	E: Amounts Paid Against Indebtedness, from: Other Funds	F: Remaining Balance (A+B-C-D-E)
Pg new Line new	Pg Line	T/I paid on Orig Area COP		T/I paid on Orig Area COP 1,169,974.92		1,169,974.92		
Pg new Line new	Pg Line	T/I for Admin & ERAF		T/I for Admin 376,000.00		376,000.00		
Pg new Line new	Pg Line	T/I for Projects		T/I for Projects 912,000.00		912,000.00		
TOTAL - THIS PAGE				2,457,974.92		2,457,974.92		

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt Column.

CALCULATION OF AVAILABLE REVENUES

AGENCY NAME MODESTO REDEVELOPMENT AGENCY

PROJECT AREA MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

TAX YEAR 2007-08

RECONCILIATION DATES: JULY 1, 2006 TO JUNE 30, 2007

1.	Beginning Balance, Available Revenues (See Instructions)	$ -
2.	Tax Increment Received - Gross All Tax Increment Revenues, including any Tax Increment passed through to other local taxing agencies	$ 4,967,916.91
3.	All other Available Revenues Received (See Instructions)	$ -
4.	Revenues from any other source, included in Column E of the Reconciliation Statement, but not included in (1 - 3) above	$ 75,544.59
5.	Sum of Lines 1 through 4 =	$ 5,043,461.50
6.	Total amounts paid against indebtedness in previous year. (D + E on Reconciliation Statement)	$ 5,043,461.50
7.	Available Revenues, End of Year (5 - 6) FORWARD THIS AMOUNT TO STATEMENT OF INDEBTEDNESS	$ -

NOTES

Tax Increment Revenues:

The only amount(s) to be excluded as Tax Increment Revenue are any amounts passed through to other local taxing agencies pursuant to Health and Safety Code Section 33676. Tax Increment Revenue set-aside in the Low and Moderate Income Housing Fund will be washed in the above calculation, and therefore omitted from Available Revenues at year end.

Item 4. above:

This represents any payments from any source other than Tax Increment OR available revenues. For instance, an agency funds a project with a bond issue. The previous SOI included a Disposition Development Agreement (DDA) which was fully satisfied with these bond proceeds. The DDA would be shown on the Reconciliation Statement as fully repaid under the "other" column (Col E), but with funds that were neither Tax Increment, nor "Available Revenues" as defined. The amounts used to satisfy this DDA would be included on line 4 above in order to accurately determine ending "Available Revenues".

STATEMENT OF INDEBTEDNESS - CONSOLIDATED
FILED FOR THE 2007-08 TAX YEAR

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

Balances Carried Forward From:		Line	Current Total Outstanding Debt	Current Principal/Interest Due During Tax Year
Fiscal Period - Totals	(From Form A, Page 1 Totals)	(1)	$ 90,752,139.75	$ 2,024,925.00
(Optional) Post Fiscal Period - Totals	(From Form B Totals)	(2)	$ 0.00	$ 0.00
Grand Totals		(3)	$ 90,752,139.75	$ 2,024,925.00
Available Revenues From Calculation of Available Revenues, Line 7		(4)	$ 1,979,631.00	
Net Requirement		(5)	$ 88,772,508.75	

Consolidate on this form all of the data contained on Form A and B (including supplemental pages). Form A is to include all indebtedness entered into as of June 30 of the Fiscal Year. Form B may be filed at the option of the agency, and is to include indebtedness entered into post June 30 of the Fiscal Year, pursuant to Health and Safety Code Section 33675(c)(2). This is optional for each agency and is not a requirement for filing the Statement of indebtedness. The Reconciliation Statement is to include indebtedness from Form A only.

Certification of Chief Financial Officer:
Pursuant to Section 336775 (b) of the Health and Safety Code, I hereby certify that the above is a true and accurate Statement of Indebtedness for the above named agency.

M. Wayne Padilla — Name

Finance Director — Title

Signature

September 28, 2007 — Date

Rev 6/3/94

STATEMENT OF INDEBTEDNESS
FILED FOR THE 2007-08 TAX YEAR

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY
Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

For Indebtedness Entered into as of June 30, 2007

Debt Identification	Original Data					Current	
	Date	Principal	Term	Interest Rate	Total Interest	Total Outstanding Debt	Principal/Interest Due During Tax Year
(A) Loan from City of Modesto	12/12/82	49,050.00	open	7%	239,344.00	288,394.00	
(B) Loan from City of Modesto	4/24/84	25,000.00	open	7%	107,043.00	132,043.00	
(C) Loan from City of Modesto	4/24/84	35,000.00	open	7%	149,860.00	184,860.00	
(D) Loan from City of Modesto	4/24/84	2,200,000.00	open	7%	9,419,766.00	11,619,766.00	
(E) Loan from City of Modesto	10/12/84	640,000.00	open	7%	2,619,412.00	3,259,412.00	
(F) Loan from City of Modesto	1/31/85	1,187,500.00	open	7%	4,715,313.00	5,902,813.00	
(G) Loan from City of Modesto	11/01/85	3,300,000.00	open	7%	12,171,466.00	15,471,466.00	
(H) Loan from City of Modesto	10/26/86	81,000.00	open	7%	270,560.00	351,560.00	
(I) Certificates of Participation	05/27/93	27,225,000.00	30 yrs.	2.5%-5.6%	3,439,275.00	30,664,275.00	1,949,925.00
(J) Transfer/loans from City	06/30/03	1,490,573.00	open	7%	3,632,476.00	5,123,049.00	
Sub Total, This Page						$ 72,997,638.00	$ 1,949,925.00
Totals Forward From All Other Pages						$ 17,754,501.75	$ 75,000.00
Grand Totals						$ 90,752,139.75	$ 2,024,925.00
Available Revenues From Calculation of Available Revenues						$ -	
Net Requirement						$ 90,752,139.75	

Purpose of Indebtedness:

(A) Legal - Consulting & Administration

(B) Legal - Consulting & Administration

(C) Legal - Consulting & Administration

(D) Land Acquisition

(E) Archetectural costs & consulting

(F) Land Acquisition - Site preparation & construction

(G) Land Acquisition & Construction

(H) Land Acquisition

(I) Construction of Community Center

(J) Transfers/loans from City , per City Council/RDA 6/30/03

FILED FOR THE 2007-08 TAX YEAR

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

For Indebtedness Entered into as of June 30, 2007

Debt Identification	Original Data					Current	
	Date	Principal	Term	Interest Rate	Total Interest	Total Outstanding Debt	Principal/Interest Due During Tax Year
(A) Low-Mod Housing Set-aside	11/05/91	-	40 yrs.	n/a	n/a	17,754,501.75	75,000.00
(B)							
(C)							
(D)							
(E)							
(F)							
(G)							
(H)							
(I)							
(J)							
(K)							
(L)							
Total This Page						$ 17,754,501.75	$ 75,000.00

Purpose of Indebtedness:

(A) 20% Low-Mod Income Housing set-aside (new est.)

(B)

(C)

(D)

(E)

(F)

(G)

(H)

(I)

(J)

(K)

(L)

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

Tax Year 2007-08

Reconciliation Dates: From July 1, 2006 To June 30, 2007

Debt Identification: SOI, page and line: Prior Yr	Current Yr.	Brief Description	A Outstanding Debt All Beginning Indebtedness	B Adjustments Increases (Attach Explanation)	C Adjustments Decreases (Attach Explanation)	D Amounts Paid Against Indebtedness, from: Tax Increment	E Amounts Paid Against Indebtedness, from: Other Funds	F Remaining Balance (A+B-C-D-E)
Pg 1 Line A	Pg 1 Line A	Loan from City of Modesto	269,219.00	Interest added 19,175.00				288,394.00
Pg 1 Line B	Pg 1 Line B	Loan from City of Modesto	123,264.00	Interest added 8,779.00				132,043.00
Pg 1 Line C	Pg 1 Line C	Loan from City of Modesto	172,569.00	Interest added 12,291.00				184,860.00
Pg 1 Line D	Pg 1 Line D	Loan from City of Modesto	10,847,176.00	Interest added 772,590.00				11,619,766.00
Pg 1 Line E	Pg 1 Line E	Loan from City of Modesto	3,042,696.00	Interest added 216,716.00				3,259,412.00
Pg 1 Line F	Pg 1 Line F	Loan from City of Modesto	5,510,339.00	Interest added 392,474.00				5,902,813.00
Pg 1 Line G	Pg 1 Line G	Loan from City of Modesto	14,442,779.00	Interest added 1,028,687.00				15,471,466.00
Pg 1 Line H	Pg 1 Line H	Loan from City of Modesto	328,185.00	Interest added 23,375.00				351,560.00
TOTAL - THIS PAGE			34,736,227.00	2,474,087.00				37,210,314.00
TOTALS FORWARD			55,425,383.00	129,928.52		335,603.85	1,677,881.92	53,541,825.75
GRAND TOTALS			$ 90,161,610.00	$ 2,604,015.52	$ -	$ 335,603.85	$ 1,677,881.92	$ 90,752,139.75

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt column. Use the page and line number that the indebtedness is listed on in each year as appropriate, and a brief description. Ignore any indebtedness fully repaid in the previous year, as it had a zero ending balance. All new indebtedness entered into since the previous SOI is to be listed below the previous indebtedness. Enter "new" in the "Prior Yr" page and line column for each new indebtedness.

Rev. 5/2/94

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

Tax Year 2007-08 | Reconciliation Dates: From July 1, 2006 To June 30, 2007

Debt Identification: SOI, page and line: Prior Yr	Debt Identification: SOI, page and line: Current Yr	Brief Description	A: Outstanding Debt All Beginning Indebtedness	B: Adjustments Increases (Attach Explanation)	C: Adjustments Decreases (Attach Explanation)	D: Amounts Paid Against Indebtedness, from: Tax Increment	E: Amounts Paid Against Indebtedness, from: Other Funds	F: Remaining Balance (A+B-C-D-E)
Pg 1 Line I	Pg 1 Line I	Certificates of Participation	32,610,640.00			268,483.08	1,677,881.92	30,664,275.00
Pg 1 Line J	Pg 1 Line J	Trahsfer/loans from City	4,782,421.00	Interest added 340,628.00				5,123,049.00
Pg 2 Line A	Pg 2 Line A	Low-Mod Housing Set-aside	18,032,322.00	Adj. to total debt (210,699.48)		67,120.77		17,754,501.75
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
TOTAL - THIS PAGE			55,425,383.00	129,928.52		335,603.85	1,677,881.92	53,541,825.75

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt Column.

CALCULATION OF AVAILABLE REVENUES

AGENCY NAME MODESTO REDEVELOPMENT AGENCY

PROJECT AREA MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

TAX YEAR 2007-08

RECONCILIATION DATES: JULY 1, 2006 TO JUNE 30, 2007

1.	Beginning Balance, Available Revenues (See Instructions)	$	1,979,631.00
2.	Tax Increment Received - Gross All Tax Increment Revenues, including any Tax Increment passed through to other local taxing agencies	$	335,603.85
3.	All other Available Revenues Received (See Instructions)	$	-
4.	Revenues from any other source, included in Column E of the Reconciliation Statement, but not included in (1 - 3) above	$	1,677,881.92
5.	Sum of Lines 1 through 4	$	3,993,116.77
6.	Total amounts paid against indebtedness in previous year. (D + E on Reconciliation Statement)	$	2,013,485.77
7.	Available Revenues, End of Year (5 - 6) FORWARD THIS AMOUNT TO STATEMENT OF INDEBTEDNESS	$	1,979,631.00

NOTES

Tax Increment Revenues:

The only amount(s) to be excluded as Tax Increment Revenue are any amounts passed through to other local taxing agencies pursuant to Health and Safety Code Section 33676. Tax Increment Revenue set-aside in the Low and Moderate Income Housing Fund will be washed in the above calculation, and therefor omitted from Available Revenues at year end.

Item 4. above:

This represents any payments from any source other than Tax Increment OR available revenues. For instance, an agency funds a project with a bond issue. The previous SOI included a Disposition Development Agreement (DDA) which was fully satisfied with these bond proceeds. The DDA would be shown on the Reconciliation Statement as fully repaid under the "other" column (Col E), but with funds that were neither Tax Increment, nor "Available Revenues" as defined. The amounts used to satisfy this DDA would be included on line 4 above in order to accurately determine ending "Available Revenues".

Rev (5/2/94)

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007–734

A RESOLUTION APPROVING A MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH OMNI-MEANS FOR THE STREETS PORTION OF THE CAPITAL FACILITIES FEE UPDATE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City, has determined that the Capital Facilities Fee Program should be updated every five years to ensure that fees are in place for the construction of infrastructure necessary to serve development, and

WHEREAS, Omni Means ("Consultant") is qualified to provide the services to prepare the streets portion of the CFF update, and

WHEREAS, City and Consultant desire to enter into a Master Professional Services Agreement for Consultant Services ("Master Agreement") pursuant to which Consultant shall update the Capital Facilities Fee Program, perform technical studies and related on-call services as assigned by City, and

WHEREAS, prior to commencement of services under the Master Agreement, all work and services to be provided to City by Consultant shall be outlined in a Task Order for each project and shall be approved by the City in accordance with City's policies regarding contracting authority,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Master Professional Services Agreement for Consultant Services between the City of Modesto and Omni Means for the update of the Streets portion of the Capital Facilities Fee Program is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or designee, is hereby authorized to execute the Master Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-735

A RESOLUTION APPROVING TASK ORDER NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH OMNI-MEANS, LTD. FOR THE UPDATE OF THE STREETS PORTION OF THE CAPITAL FACILITIES FEES PROGRAM AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE TASK ORDER NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT

WHEREAS, the City has determined that the Capital Facilities Fee Program should be updated every five years to ensure that fees are in place for the construction of infrastructure necessary to serve development, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-734, the Council approved a Master Professional Services Agreement for Consultant Services ("Master Agreement") with OMNI-MEANS, Ltd. ("Consultant") for the preparation of various technical studies as well as on-call consultant services relating to the City's transpiration and circulation system, and

WHEREAS, prior to commencement of services under the Master Agreement, all work and services to be provided by Consultant shall be outlined in a Task Order for each project and approved by the City in accordance with City policies regarding contracting authority, and

WHEREAS, Consultant has prepared Task Order No. 1 ("Task Order") for the update of the streets portion of the Capital Facilities Fee Program, attached as **Exhibit "A"**, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Task Order No. 1 to the Master Professional Services Agreement for Consultant

Services with OMNI-MEANS, Ltd. for the upgrade of the streets portion of the Capital Facilities Fees Program, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Task Order No. 1 to the Master Professional Services Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December 2007, Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT 1

City of Modesto
TASK ORDER NO. 1
for
OMNI-MEANS
Master Professional Services Agreement for Consultant Services

CITY OF MODESTO CAPITAL FACILITIES FEES – STREET PROJECTS

This Task Order No. 1 is made and entered into by and between the City of Modesto, a municipal corporation (hereinafter "CITY"), and OMNI-MEANS, Ltd (hereinafter "CONSULTANT") and is effective as of _____.

RECITALS

A. CONSULTANT has entered into a Master Professional Services Agreement for Consultant Services, (hereinafter "Agreement"), dated _____ ("AGREEMENT") with the CITY, by which the CONSULTANT has agreed to provide on-call services relating to the City's transportation and circulation system , which is incorporated herein by reference.

B. At the request of CITY and in compliance with the terms of the AGREEMENT, CONSULTANT has prepared the Task Order No. 1, a copy of which is attached hereto as Exhibit A.

C. CITY and CONSULTANT desire that CONSULTANT perform the services as identified in the attached Task Order.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION OF MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Professional Services Agreement, unless expressly modified by this Task Order. The AGREEMENT and this Task Order shall, to the fullest extent possible, be read and considered as fully integrated documents and shall be interpreted so as to avoid inconsistencies, comply with all applicable laws and ensure that the objectives of the parties will be fully realized.

   Nothing in this Task Order is intended to supersede, terminate, modify or otherwise affect any provision of the AGREEMENT, except to the extent that a provision of this AGREEMENT is in direct and irreconcilable conflict with a provision of the AGREEMENT. Then, and only in that event, the provisions of the AGREEMENT shall prevail over the contradictory provision of the Task Order.

2. **SCOPE OF SERVICES**. CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not listed in this Task Order, without the prior written consent of CITY.

3. **TIME OF PERFORMANCE**. CONSULTANT shall commence performance within five (5) working days after receipt of a Notice to Proceed from City.

4. **COMPENSATION**. For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed $98,720. CONSULTANT shall be paid at the times and in the manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Task Order.

5. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the CONSULTANT and CITY. This Task Order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2007-_____, adopted by the Council of the City of Modesto on the ____ day of _____, 2007, and OMNI-MEANS, Ltd. has caused this Agreement to be duly executed in duplicate as of the Effective Date set forth above.

CITY OF MODESTO,
a municipal corporation

By _____
GEORGE W. BRITTON,
City Manager

CONSULTANT,
OMNI-MEANS, Ltd.

By _____
Name Title

By _____
Name Title

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

(Seal)

By _____
ROLAND STEVENS,
Senior Deputy City Attorney

Consultant's Federal ID #_____

ATTEST:

** Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.*

Partnership - signature of a partner required

By _____
JEAN MORRIS, City Clerk

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-736

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 OPERATING BUDGET TO CREATE A MULTI-YEAR ACCOUNT FOR THE UPDATE OF THE STREETS PORTION OF THE CAPITAL FACILTIES FEE PROGRAM AND APPROPRIATING $98,720, FROM CFF FUND 1390-140-0260-0242 TO MY ACCOUNT 1390-140-0266-0242

WHEREAS, the City has determined that the Capital Facilities Fee Program should be updated every five years to ensure that fees are in place for the construction of infrastructure to serve development, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-734, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services ("Agreement") with OMNI-MEANS, Ltd. for the preparation of various technical studies as well as on-call consultant services relating to the City's transportation and circulation system, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-735, the Council of the City of Modesto approved Task Order No. 1 to the Agreement for the preparation of the streets portion of the Capital Facilities Fee update, and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2007-2008 operating budget to create a multi-year account for the preparation of the streets portion of the Capital Facilities Fee program and appropriate $98,720 from 1390-140-0260-0242 to 1390-140-0266-0242 for professional services.

BE IT FURTHER RESOLVED that the Finance Director, or designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-737

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF DIESEL PARTICULATE FILTERS TO GOLDEN STATE PETERBILT, FRESNO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $127,697.

WHEREAS, in 2000, the California Air Resources Board (CARB) approved the Diesel Risk Reduction Plan, which focused on reducing diesel particulate matter (PM) emissions. This plan targets 1960 to 2006 model year on-road diesel powered vehicles, and

WHEREAS, beginning in 2007, the implementation of the Diesel Risk Reduction Plan will affect only municipalities and utilities, and

WHEREAS, in 2007, twenty percent (20%) of City's seventy-one (71) affected vehicles must be compliant with these regulations, and

WHEREAS, in 2009, the percentage increases to sixty percent (60%) compliance, with the entire fleet to be compliant by 2010, and

WHEREAS, on September 4, 2007, Council approved Resolution No. 2007-526 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of a "sole brand" Donaldson diesel particulate matter filters for the Public Works Department, Fleet Services Division, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, on September 24, 2007, the Purchasing Division issued RFB No. 0708-11 for the purchase of a "sole brand" Donaldson diesel particulate filter to twenty-three (23) prospective bidders, none were local companies, posted the bid on the City's web site and formally advertised as required by law.

WHEREAS, on October 23, 2007, RFB's were formally opened in the City Clerk's office and of the twenty-three (23) prospective bidders, eight (8) companies chose to respond, and

WHEREAS, one company submitted a non-responsive and non-responsible bid and the bid submittal was rejected, and

WHEREAS, based on being deemed the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of diesel particulate filters to Golden State Peterbilt, Fresno, CA, for an estimated total cost of $127,697, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of diesel particulate filters for the Public Works Department, Fleet Services Division, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following account for the purchase of diesel particulate filters for FY 07/08, account number 7200-489-5812-0365,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of diesel particulate filters to Golden State Peterbilt, Fresno, CA,

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for an estimated total cost of $127,697.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
Stephanie Lopez, Acting City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-738

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PURCHASE OF A NEW XIOTECH MAGNITUDE 3D STORAGE SYSTEM FOR THE MODESTO POLICE DEPARTMENT DIGITAL EVIDENCE SYSTEM AND UPGRADE THE CITY'S EXISTING XIOTECH MAGNITUDE 1000 SYSTEM FOR A TOTAL AMOUNT NOT TO EXCEED $125,000.00

WHEREAS, the Modesto Police Department's Digital Evidence System, which provides for the digital storage, archival and retrieval of crime scene evidence has reached its capacity and is in need of replacement, and

WHEREAS, the current optical storage jukebox has reached its capacity to accommodate the need for additional storage of digital evidence, and

WHEREAS, the storage of digital evidence is now being stored on CD / DVD media, and

WHEREAS, this is not an ideal solution and one that is a manual and time-consuming process, and

WHEREAS, the Information Technology Department proposes to replace the Police Departments current optical system with a Storage Area Network from Xiotech Corporation, and

WHEREAS, in 2004, the City I.T. Department purchased a Storage Area Network from Xiotech Corporation to meet the City's increasing demands for digital data storage, and

WHEREAS, the City went through a formal bid process and Xiotech Corporation was selected for their innovative advanced technology, meeting the City's requirements and affordability, and

WHEREAS, the Xiotech Storage Area Network, which is currently in use by the City, is in need of an upgrade to add additional performance, capacity and compatibility to the City's current storage needs and future storage strategy, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, there are exceptions to the rule set forth in the Modesto Municipal Code, and

WHEREAS, Modesto Municipal Code Section 8-3.204 (b) states "Where the Purchasing Agency's requirements can be met solely by a single article or process," and

WHEREAS, due to the technical specifications required by the Information Technology Department including complete compatibility with previously authorized and procured Xiotech Systems, and the fact that Xiotech is the sole authorized vendor of Xiotech products, the procurement can only be conducted as a sole source, and

WHEREAS, the purchase of a Xiotech Magnitude 3D w/ Cluster Storage Bay IV Storage Area Network and a Magnitude 3D System upgrade conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the Information Technology account 7130-070-0744-5452 in the amount of $45,000 and in the Police Department SLESF 2006/2007 fund, account 0400-190-2923-5008 in the amount of $80,000 for a total of $125,000, for the purchase of Xiotech Magnitude 3D w/ Cluster Storage Bay IV Storage Area Network for Digital Evidence and Magnitude 3D System upgrade,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to conduct a sole source purchase of a new Xiotech Magnitude 3D Storage System for the Modesto Police Department Digital Evidence System, and upgrade the City's existing Xiotech Magnitude 1000 System for a total amount not to exceed $125,000.00.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, Olsen, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-739

A RESOLUTION APPROVING A NEW SCHEDULE "A" AGREEMENT TO THE MUNICIPAL MASTER LEASE WITH DELL MARKETING L.P., FOR INFORMATION TECHNOLOGY HARDWARE PRODUCTS AND SERVICES FOR A PERIOD OF 48 MONTHS FOR THE ESTIMATED AMOUNT OF $159,018 PER YEAR, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE NEW SCHEDULE "A" AGREEMENT. THE TOTAL AMOUNT OF THE LEASE AGREEMENT IS ESTIMATED AT $636,072

WHEREAS, in 1998 the City established a Technology and Equipment Replacement Fund (TERF) for the purpose of replacing obsolete technology equipment, and

WHEREAS, in 1999 the City went through a formal bid process to establish a computer standard throughout the city, and

WHEREAS, Dell Marketing was the lowest responsive and responsible bidder to the formal bid process, and

WHEREAS, on March 25, 2003 by Resolution no 2003-163 the City entered into a Municipal Master Lease Agreement with Dell Marketing L.P. for Information Technology (IT) Hardware Products and Services, and

WHEREAS, on August 2, 2006 by Resolution no 2006-467 the City approved a new Schedule "A" Agreement to the Municipal Master Lease with Dell Marketing L.P. extending the term of the Lease for 48 months, and

WHEREAS, IT views this program as a cost effective measure for the City, emphasizing reduction of the Total Cost of Ownership (TCO) for the City's technology equipment and helping streamline the City's technology refresh program that affects all departments, and

WHEREAS, Dell Marketing has been providing personal computers to the City for the past seven years, and

WHEREAS, during that time the City has received Dell contractual pricing by taking advantage of the Western States Contracting Alliance (WSCA) pricing, and

WHEREAS, WSCA is a coalition of 15 western states which was formed as a means by which participating states could join together to receive cost effective pricing on personal computers based on economies of scale, and

WHEREAS, the City routinely requires replacements, acquisitions and upgrades to existing City computer equipment inventory, and

WHEREAS, funding for said computer equipment is approved and budgeted in the Technology and Equipment Replacement Fund (TERF), and

WHEREAS, the City is desirous of continuing to acquire computer equipment using the existing Municipal Master Lease Agreement with Dell Marketing L.P. for Information Technology Hardware Products and Services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Schedule "A" Agreement to the Municipal Master Lease Agreement with Dell Marketing L.P. for Information Technology hardware products and services for a period of 48 months for an estimated amount of $636,072.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a new Schedule "A" Agreement to the Municipal Master Lease Agreement with Dell Marketing L.P.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-740

A RESOLUTION APPROVING AN AGREEMENT WITH KABOOM! FOR UP TO $50,000 IN GRANT FUNDING FOR PLAYGROUND AND PICNIC EQUIPMENT AT MORAN ESTATES PARK, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, staff in the Parks, Recreation and Neighborhood Department (PRND) has been working with representatives from the La Loma Neighborhood Association (LLNA) to replace playground equipment at Moran Estates Park, since the old equipment, which did not meet current safety standards, was removed in 2004, and

WHEREAS, in early November 2007, Councilmember O'Bryant received an e-mail regarding the KaBOOM! playground grant program, and

WHEREAS, KaBOOM! is a national non-profit organization that envisions a great place to play within walking distance of every child in America, and

WHEREAS, KaBOOM! develops, manages and coordinates community-building playground projects for its Community and Funding Partners, culminating in a one-day installation event known as "Build Day," and

WHEREAS, the KaBOOM! program forms partnerships with corporate donors (Funding Partners) and Community Partners to install playground equipment, and

WHEREAS, KaBOOM! provides a project manager to work with the communities and a certified playground technician to assist with the installation and certify the safety of the playground, and

WHEREAS, KaBOOM! allows the Community Partners to select several "side projects," such as picnic tables, benches or barbecue to add to the playground usability, and

WHEREAS, the playground area at Moran Estates Park meets the requirements of the KaBOOM! Grant, and

WHEREAS, the playground manufacturers with KaBOOM! will match the La Loma Neighborhoods Association's selection of equipment, and

WHEREAS, all equipment being installed will be in compliance with ADA requirement, and

WHEREAS, this is a joint project between the City of Modesto and LLNA, as Community Partners, and

WHEREAS, all the volunteer requirements, site requirements, as well as the minimal matching funds, have been achieved, and

WHEREAS, the KaBOOM! grant will fund playground equipment at Moran Estates Park for up to $50,000, and

WHEREAS, funding from this grant program will help the City of Modesto and LLNA to install playground equipment in a park that has been without equipment for nearly three years, and

WHEREAS, staff from the PRND and representatives from the LLNA believe that the Moran Estates Park and the KaBOOM! program work well together and all program and site requirements can be fulfilled, and

WHEREAS, the City of Modesto is responsible for contributing $10,000 to the playground project; these funds are currently budgeted in Capital Improvement Project 1130-320-3237, ADA Accessibility Projects, and

WHEREAS, this grant project qualifies for ADA designated funding, since the playground surface and equipment meet ADA requirements, and a portion of the project will provide curb cuts which further improve access, and

WHEREAS, the La Loma Neighborhood Association will be responsible for organizing the planning committee, managing volunteers, supplying the food, water and tools, as well as taking care of the extra activates for children on Build Day, and

WHEREAS, the Safety and Communities Committee met on December 3, 2007, and supported staff's recommendation to enter into an Agreement with KaBOOM!,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Agreement with KaBOOM! for up to $50,000 in grant funding for playground equipment at Moran Estates Park.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-741

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR PROPOSALS (RFP) FOR THE PURCHASE OF A SOLE BRAND, EXALT COMMUNICATIONS TRI-BAND WIRELESS ETHERNET BRIDGE AND ALL CERTIFIED COMPONENTS FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION FOR A TOTAL ESTIMATED COST OF $84,000.

WHEREAS, the current available network bandwidth connecting the Jennings Treatment Plant to the City network is unable to meet the needs for security upgrades being made at the facility, and

WHEREAS, the network bandwidth needs to be increased for these security upgrades, and

WHEREAS, due to the remote location of the Jennings Treatment Plant it is cost prohibitive to trench and install fiber to extend the City's fiber network to that location, and

WHEREAS, the current AT&T T1 lines have a 1.5 Mbps bandwidth and due to its physical connection there have been occasions when connection has been lost causing interruptions in the flow of essential information to the Jennings Treatment Plant, and

WHEREAS, staff reviewed other options and concluded that wireless network technology was the best option, and

WHEREAS, staff worked with the IT Department to schedule a site survey with Alpha Omega Wireless, and

WHEREAS, it was determined by this survey that a radio link was feasible with a high degree of reliability and that a 200Mbps system from the Sutter Treatment Plant to the Jennings Treatment Plant, and a 100Mbps system from the Jennings Treatment Plant to the Chlorine Facility would be applicable, and

WHEREAS, Alpha Omega has recommended Exalt as a sole brand to ensure a certified installation based on the features, functionality, and reliability of the Exalt Communication Tri-band Wireless Ethernet Bridge, and

WHEREAS, with the installation of a wireless Ethernet bridge, the Jennings Treatment Plant will have a greater amount of bandwidth and increased network reliability to support the security upgrades and other current and future needs, and

WHEREAS, funds are budgeted in account 6210-480-B082-6040 – Security Upgrades - Jennings,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a formal Request for Proposals (RFP) for the purchase of a sole brand, Exalt Communications Tri-Band wireless Ethernet Bridge and all certified components for the Public Works Department, Water Quality Control Division for a total estimated cost of $84,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-742

A RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC., FOR PROFESSIONAL ENGINEERING SERVICES TO DEVELOP A PRELIMINARY DESIGN REPORT FOR THE MODESTO REGIONAL WATER TREATMENT PLANT TIER 2 – WEST TANK IMPROVEMENTS, IN THE NOT-TO EXCEED AMOUNT OF $271,525, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City and the Modesto Irrigation District (MID) have been planning for the expansion of the Modesto Regional Water Treatment Plant (MRWTP) from its existing capacity of 30 million gallons per day (mgd) to 60 mgd, and

WHEREAS, downstream improvements consisting of water storage tanks, booster pumping stations, pressure and/or flow control valves, and pipelines are needed to fully integrate the Phase Two Expansion of the MRWTP with the City's water system, and

WHEREAS, an initial evaluation of the water distribution system, using the City's recently developed computer model, has confirmed the need for these improvements and has provided a general project description of the improvements, and

WHEREAS, the West Tank improvements are needed to integrate the planned Tier 2 of the MRWTP with the City's water distribution system, and

WHEREAS, the selection for preliminary engineering design services followed the City's selection procedures for professional consultants as outlined in Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, and

WHEREAS, City staff sent a Request for Qualifications for engineering design services to civil engineering firms that had previously indicated an interest in providing design services to the City, and

WHEREAS, ninety-four consulting firms were asked to provide a Statement of Qualifications, and

WHEREAS, twelve consulting firms responded with a Statement of Qualifications, and

WHEREAS, a Selection Committee comprised of City staff short-listed five consulting firms and requested a Proposal Statement, and

WHEREAS, four short-listed consulting firms responded and were given interviews by the Selection Committee, and

WHEREAS, West Yost Associates, Inc., was considered to be the most qualified for the Modesto Regional Water Treatment Plant Tier 2 – West Tank Improvements Preliminary Design project, and

WHEREAS, the Public Works Director has recommended accepting the proposed contract with West Yost Associates, Inc., to develop a Preliminary Design Report for the Modesto Regional Water Treatment Plant Tier 2 – West Tank Improvements in an amount not to exceed $271,525,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with West Yost Associates, Inc., to develop a Preliminary Design Report for the Modesto Regional Water Treatment Plant Tier 2 – West Tank Improvements in an amount not to exceed $271,525.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Keating,

who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-743

A RESOLUTION ACCEPTING THE WORK BY BARHAM, INC., FOR THE PROJECT TITLED "MODESTO POLICE DEPARTMENT TRAINING CENTER RANGE BUILDING" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $295,184.63

WHEREAS, a report has been filed by the Public Works Director that the project titled "Modesto Police Department Training Center Range Building" has been completed by Barham, Inc., in accordance with the contract agreement dated May 2, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Modesto Police Department Training Center Range Building" is hereby accepted as complete from said contractor, Barham, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $295,184.63 is authorized as provided in the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-744

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PAMELA MONTEROSSO PARK PROJECT, ACCEPTING THE BID AND APPROVING A $480,106.36 CONTRACT WITH SUNWORLD FOR THE PROJECT TITLED, "PAMELA MONTEROSSO PARK," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Pamela Monterosso Park" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Pamela Monterosso Park" were opened at 11:00 a.m. on November 13, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $480,106.36 received from Sunworld, be accepted as the lowest responsible bid and the contract be awarded to Sunworld,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Sunworld in the amount $480,106.36, and hereby awards Sunworld the contract titled "Pamela Monterosso Park."

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-745

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE CONTRACT WITH SUNWORLD, AND COVER CONSTRUCTION CONTINGENCY AND CONSTRUCTION ADMINISTRATION COSTS BY TRANSFERRING $15,000 FROM PARKS CAPITAL FACILITY FEES AIR QUALITY RESERVE TO THE CAPITAL GRANTS PARKS FUND WHERE IT WILL BE APPROPRIATED TO P502 PAMELA MONTEROSSO PARK PROJECT

WHEREAS, the Public Works Director has recommended that the bid of $480,106.36 from Sunworld, be accepted as the lowest responsible bid and the contract awarded to Sunworld,

WHEREAS, certain budgetary transactions are necessary to fully fund said contract with Sunworld, in the amount of $480,106.36 for construction services, $45,610.10 for construction contingency, and $57,612.76 to cover construction administration costs, including contract administration by City staff, for a total of $583,329.22 and

WHEREAS, $15,000 is available from the Parks Capital Facility Fees Air Quality Reserve Account 1430-800-8000-8003,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the transfer of funds as set forth herein to fully fund the Contract with Sunworld, in the amount of $480,106.36 for construction services, $45,610.10 for construction contingency, and $57,612.76 to cover construction administration costs, including contract administration by City staff, for a total of $583,329.22 for the Pamela Monterroso Park project.

BE IT FURTHER RESOLVED that the Council hereby approves amending the FY 07-08 Capital Improvement Program to transfer $15,000 from Parks Capital Facility

Fees Air Quality Reserve Account to the Capital Grants Fund where it will be appropriated to 2330-310-P502, Pamela Monterosso Park Project.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-746

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR PROPOSALS (RFP) FOR THE PURCHASE OF A VEHICLE WASHING FACILITY FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, FOR AN ESTIMATED TOTAL COST OF $250,000.

WHEREAS, the current vehicle washing facility (facility) was installed in the early 1980's with a twenty-year life expectancy, and

WHEREAS, due to the wide variety of equipment in the City fleet, the facility is used by most of the City vehicles, and

WHEREAS, this facility is the only available option for some of the specialty equipment, including the transit buses, and

WHEREAS, the City's contract with MV Transportation requires a system to wash the transit buses two times per week, and

WHEREAS, the facility has deteriorated significantly resulting in higher breakdown rates and longer downtimes as repairs are made, and

WHEREAS, the parts for the repair are no longer available and must be custom manufactured when needed, and

WHEREAS, staff has contacted contractors and determined repairing the current facility will not improve its reliability, and

WHEREAS, in FY 2006/07 the facility required $9,970.69 in repair costs, and

WHEREAS, funds are budgeted in Account 6510-165-J792-6070 for this purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a formal Request for Proposals for the purchase of a Vehicle Washing Facility for the Public Works Department, Fleet Services Division, for an estimated total cost of $250,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-747

A RESOLUTION AMENDING THE OPERATING BUDGET FOR FY07-08 BY INCREASING ACCOUNT 0300-410-4112-4909 (INTERFUND LABOR CHARGES) BY $23,333 AND APPROPRIATING $17,041 TO ACCOUNT 0300-410-4112-0181 (ENGINEERING/DESIGN SALARY ADJUSTMENT) AND $6,292 TO ACCOUNT 0300-410-4112-0191 (ENGINEERING/DESIGN BENEFITS ADJUSTMENT) IN ORDER TO FULLY FUND THE COST TO REALLOCATE ONE (1) ASSOCIATE CIVIL ENGINEER TO ONE (1) SENIOR CIVIL ENGINEER AND TO REALLOCATE ONE (1) SENIOR CIVIL ENGINEERING ASSISTANT TO ONE (1) ASSOCIATED CIVIL ENGINEER

WHEREAS, salary and benefits for the Associate Civil Engineer (Range 443; Step 1) are budgeted at $105,594.35, and salary and benefits for the Senior Civil Engineering Assistant (Range 131; Step E) are budgeted at $88,505.31 for FY 07-08, and

WHEREAS, cost for the proposed reallocation at the Senior Civil Engineer level (Range 450; up to Step 4) is estimated at $135,169.59, and cost for the proposed reallocation at the Associate Civil Engineer level (Range 443; Step 1) is estimated at $105,594.35, and

WHEREAS, certain budgetary transactions are necessary to fully fund said reallocation requiring an increase in budget for 6 months of salary for the remainder of FY 07-08 in the amount of $23,333 ($14,787.62 and $8,544.52 respectively), and

WHEREAS, an increase in the operating budget for Organization 4112 by $46,664.29 ($29,575.25 and $17,089.04 respectively) is necessary to fund annual costs beginning in FY08-09 in order to fully fund the cost to reallocate one (1) Associate Civil Engineer to one (1) Senior Civil Engineer and to reallocate one (1) Senior Civil Engineering Assistant to one (1) Associate Civil Engineer, and

WHEREAS, the total amount of $23,333 is to be transferred by increasing Account 0300-410-4112-4909 (Interfund Labor Charges) by $23,333 and appropriating $17,041 to Account 0300-410-4112-0181 (Engineering/Design Salary Adjustment) and

$6,292 to Account 0300-410-4112-0191 (Engineering/Design Benefits Adjustment) in order to fully fund the cost to reallocate one (1) Associate Civil Engineer to one (1) Senior Civil Engineer and to reallocate one (1) Senior Civil Engineering Assistant to one (1) Associated Civil Engineer,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the transfer of funds as set forth herein to fully fund the reallocation of the 2 positions, in the amount of $23,333 by increasing Account 0300-410-4112-4909 (Interfund Labor Charges) by $23,333 and appropriating $17,041 to Account 0300-410-4112-0181 (Engineering/Design Salary Adjustment) and $6,292 to Account 0300-410-4112-0191 (Engineering/Design Benefits Adjustment) in order to fully fund the cost to reallocate one (1) Associate Civil Engineer to one (1) Senior Civil Engineer and to reallocate one (1) Senior Civil Engineering Assistant to one (1) Associated Civil Engineer.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-748

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BIDS (RFB) TO PROVIDE PRUNED REFUSE RECEIVING LOCATIONS AND TRANSFER SERVICES TO THE CO-COMPOST FACILITY AT 7007 JENNINGS ROAD FOR A TWO-YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $165,000

WHEREAS, The Community Forestry Division of the Public Works Department provides a city-wide pruned refuse collection program, and

WHEREAS, collection vehicles (rear-loading packer trucks) pick up private pruned refuse, public tree prunings, and removals from locations throughout Modesto and deliver them to the Co-compost facility (facility) at 7007 Jennings Road, and

WHEREAS, each of the collection vehicles transports approximately 7 tons of pruned refuse per load, and

WHEREAS, due to the limited transfer capacity of the collection vehicles, a significant portion of the collection crew's time is spent transferring loads to the facility, which is 11 miles away, and

WHEREAS, in 2000, the City Council, by Resolutions 2000-535 and 2000-536, executed agreements with Gilton Resource Recovery and Waste Management, dba Modesto Disposal, to provide pruned refuse receiving locations and transfer services to maintain operational efficiency and meet work completion deadlines, and

WHEREAS, by having these transfer stations, travel time for the collection equipment was greatly reduced, which in turn reduced labor and equipment costs, and

WHEREAS, these agreements have expired and by issuing formal Request for Bids (RFB) the City will achieve the best value possible for this service, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal RFB for the furnishing of pruned refuse receiving locations and transfer services conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the furnishing of pruned refuse receiving locations and transfer services, for a two-year agreement with three (3) one-year extension options at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmemeber Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:
By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-749

A RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT NO. 22 TO THE VILLAGE ONE SPECIFIC PLAN TO REVISE THE LAND USE DESIGNATION FORM MULTI-FAMILY TO VILLAGE CENTER, PROPERTIES LOCATED ON THE EAST SIDE OF ROSELLE AVENUE, NORTH OF FLOYD AVENUE. (BEST DEVELOPMENT GROUP, LLC)

WHEREAS, Government Code Section 65450 et. seq. permits cities and counties to adopt specific plans for the systematic implementation of the General Plan and to provide for a greater level of detail in planning sites or areas of special interest or value, and

WHEREAS, on October 16, 1990, the City Council by Resolution No. 90-828A adopted the Village One Specific Plan, to guide the development of 1,780 acres located in northeast Modesto, and

WHEREAS, Government Code Section 65453 permits the amendment of specific plans as often as deemed necessary by the legislative body, and

WHEREAS, the City Council on June 18, 1991, by Resolution No. 91-405, adopted Specific Plan Amendment No. 1 to the Village One Specific Plan to adopt an amended Affordable Housing Program, and

WHEREAS, the City Council on May 5, 1992, by Resolution No. 92-222, adopted Specific Plan Amendment No. 2 to the Village One Specific Plan to improve technical correctness, readability, and comprehension, and

WHEREAS, the City Council on February 1, 1994, by Resolution No. 94-72, adopted Specific Plan Amendment No. 3 to the Village One Specific Plan to rewrite and reorganize the Plan to be more implementation oriented, and

WHEREAS, the City Council on May 24, 1994, by Resolution No. 94-297, certified the Final Supplemental EIR for Village One (SCH No. 90020181) which provided environmental analysis for the revisions in Specific Plan Amendment No. 4, and

WHEREAS, the City Council on May 24, 1994, by Resolution No. 94-298, adopted Specific Plan Amendment No. 4 to the Village One Specific Plan to widen Floyd Avenue from three-to-five lanes, realign the Claus/Sylvan intersection, delete the non-potable water supply for public landscaping, and integrate mitigation monitoring into the Specific Plan, and

WHEREAS, the City Council on June 28, 1994, by Resolution No. 94-372, adopted Specific Plan Amendment No. 5 to the Village One Specific Plan to revise the Residential Design Policies for cul-de-sacs, alleys, garage orientation, and plan processing, and

WHEREAS, the City Council on June 28, 1994, by Resolution No. 94-373, adopted Specific Plan Amendment No. 6 to the Village One Specific Plan to revise the school and park sites within the Specific Plan and redistribute residential units among the Village One Precise Plan Areas, and

WHEREAS, the City Council on October 10, 1995, by Resolution No. 95-487, adopted Specific Plan Amendment No. 7 to the Village One Specific Plan to reduce costs and to implement recommendations to increase the marketability of development within the Village One area, and

WHEREAS, the City Council on May 14, 1996, by Resolution No. 96-245, adopted Specific Plan Amendment No. 7.1 to the Village One Specific Plan to delete the multiple-family development designation from Precise Plan Areas Nos. 8 and 33, and Resolution No. 26-246 to amend the Design Standard portion of the Village One Specific

Plan pertaining to single-family dwelling setbacks and three-car garages, limited to Precise Plan Areas Nos. 8, 32, and 33, and

WHEREAS, the City Council on June 4, 1996, by Resolution No. 96-295, adopted Specific Plan Amendment No. 8 to the Village One Specific Plan to incorporate changes previously approved in Specific Plan Amendment No. 7 into the Specific Plan document itself, to make minor editorial changes to the Specific Plan, and to incorporate changes resulting from development of a revised Village One Facilities Master Plan, and

WHEREAS, the City Council on August 13, 1996, by Resolution No. 96-453, adopted Specific Plan Amendment No. 9 to the Village One Specific Plan to modify the standards for dwelling setbacks and three-car garages for the entire Specific Plan area, and

WHEREAS, the City Council on May 6, 1997, by Resolution No. 97-225, adopted Specific Plan Amendment No. 10 to the Village One Specific Plan to eliminate redundancy with the General Plan Housing Element policies and to eliminate language that was too restrictive, and

WHEREAS, the City Council on June 3, 1997, by Resolution No. 97-300, adopted Specific Plan Amendment No. 11 to the Village One Specific Plan to exempt public facilities from precise plan requirements, to streamline the Specific Plan amendment process, and to provide minor clarification to various policies and diagrams, and

WHEREAS, the City Council on October 21, 1997, by Resolution No. 97-602, adopted Specific Plan Amendment No. 12 to the Village One Specific Plan to allow changes in public service providers, delete the requirement for a business park market

study, revise Amtrak station language, revise the business park precise plan diagram, and allow regional commercial uses in the business park, and

WHEREAS, the City Council on February 17, 1998, by Resolution No. 98-97, adopted Specific Plan Amendment No. 13 to the Village One Specific Plan to redesignate 9.8 acres in Precise Plan Area No. 3 from Multi-Family Residential to Village Residential, and

WHEREAS, the City Council on August 17, 1999, by Resolution No. 99-416, adopted Specific Plan Amendment No. 14 to the Village One Specific Plan to modify the mix of land uses allowed in the southeast quadrant of Precise Plan Area No. 20, and

WHEREAS, the City Council on September 26, 2000, by Resolution No. 2000-507, adopted Specific Plan Amendment No. 15 to the Village One Specific Plan to reduce the noise setback along Claus Road, and

WHEREAS, the City Council on May 7, 2002, by Resolution No. 2002-230, adopted Specific Plan Amendment No. 16 to the Village One Specific Plan to move 4.1 acres from Precise Plan Area No. 6 to Precise Plan Area No. 7, and

WHEREAS, the City Council on April 1, 2003, by Resolution No. 2003-177, adopted Specific Plan Amendment No. 17 to the Village One Specific Plan to allow for a revised infrastructure financing plan for Village One, including the formation of a new community facilities district for the remaining undeveloped, unvested property in Village One, and

WHEREAS, the City Council on December 7, 2004, by Resolution No. 2004-650, adopted Specific Plan Amendment No. 18 to the Village One Specific Plan to change the land use designations of Precise Plan Areas 23 and 24 from Commercial, Village Residential, and Multi-Family Residential to Village Residential and Medium-Density

Residential and to amend some of the Village One design and development standards, and

WHEREAS, the City Council on March 8, 2005, by Resolution No. 2005-129, adopted Specific Plan Amendment No. 19 to the Village One Specific Plan to change the land use designation of a portion of Precise Plan Area No. 1 from Very Low Density Residential to Office and High School and to allow City Council approval of a Final Development Plan concurrent with approval of Precise Plan Area No. 1, and

WHEREAS, the City Council on November 1, 2005, by Resolution No. 2005-547, adopted Specific Plan Amendment No. 20 to the Village One Specific Plan to allow for a revised layout for the Village Center Retail Center, property located at the southeast corner of Roselle and Floyd, and

WHEREAS, Best Development Group, LLC has filed an application to amend the Village One Specific Plan and Precise Plan Area No. 20 to change the land use designation for five parcels (APN No. 085-050-007, 085-050-008, 085-050-006, 085-050-005, 085-050-004) from Multi-Family Residential to Village Center, property located east of Roselle Avenue and north of Floyd Avenue, and

WHEREAS, on August 28, 2007, the proposed Specific Plan Amendment was referred to the Sylvan and Modesto School District, Modesto Irrigation District, Local Agency Formation Commission, County Planning and Community Development, and the Environmental Resources Director, for a 45 day referral period in accordance with Government Code Sections 65453 and 65352, and

WHEREAS, on November 5, 2007, at 7:00 p.m. the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered concerning the proposed Village One Specific Plan amendment, and

WHEREAS, after said public hearing, the Modesto City Planning Commission by Resolution No. 2007-51, recommended to the City Council approval of an amendment to the Village One Specific Plan to revise the land use designation from Multi-Family to Village Center, property located east of Roselle Avenue and north of Floyd Avenue, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing on December 12, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth 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 that the proposed Amendment No. 22 to revise the land use designation from Multi-Family to Village Center, property located east of Roselle Avenue and north of Floyd Avenue, is consistent with the 2003 Modesto Urban Area General Plan.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Village One Specific Plan is hereby amended to revise the land use designation from Multi-Family to Village Center, property located east of Roselle Avenue and north of Floyd Avenue as shown on **Exhibit "A"** attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council that the City Clerk is hereby authorized and directed to send certified copies of this resolution and said amendment to the Village One Specific Plan to the Board of Supervisors of the County of Stanislaus.

BE IT FURTHER RESOLVED that 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 Specific Plan Amendment (File No. SPA-07-001). 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.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Precise Plan Area #20
(Figure III-21)

1. Acreage: 112 Acres

2. Land Use Intensity

Village Commercial Center	17 ac.
Multi-Family	21.5[a] ac.
Senior Housing/Multi-family	6[b] ac.
Village Residential	67.5 ac.
Total	112 ac.

[a] The area south of the Village Commercial Center shall be exclusively for the Housing Authority Project, which will consist of 1.5 acres designated for Multi-Family and 3.5 for Village Residential.

[b] The 6 acres of Senior Housing shall be exclusively for Senior Housing.

3. Special Considerations

a. Ideally, the Village Commercial Center is the first development to occur in this Precise Plan Area. At a minimum, development of the Village Commercial center should precede the development of the 10 acres closest to the Floyd/Roselle intersection on each of the other two corners.

b. The first phase of development of the Village Commercial Center shall include construction of a supermarket. Construction of other permitted commercial uses may accompany construction of the supermarket subject to the condition that the supermarket shall be the first use to open for business.

c. The time limit for commencement of construction of the first phase of development of the Village Commercial Center shall not be more than three years from the effective date of approval of the Precise Plan by the City Council. One-year time extensions, not to exceed three in number, may be granted by the Planning Commission after benefit of a public hearing, if adequate cause for such time extension is shown by the developer.

d. If construction of the first phase of the Village Commercial Center does not occur within the specified time limitations, the City may consider Precise Plan applications for development of the Village Commercial Center at one of the other two corners of Floyd and Roselle Avenues.

e. The Precise Plan shall provide for a maximum of 350,000 square feet of gross leasable area for commercial and office uses distributed in the following manner:

1. The Village Commercial Center will contain a maximum of 215,000 – 250,000 square feet of gross leasable area.

f. The Village Commercial Center should be of an improved design over a typical neighborhood shopping center, reflecting pedestrian orientation and direct linkage to neighboring land uses.

g. The Village Commercial Center should be designed in accordance with the policies presented in Sections II-G(4) and II-G.

h. Within each area designated Multi-family, only multi-family uses will be allowed with the following number of dwelling units:

1. The maximum number of dwelling units for each area is calculated as follows:

   10 Acres x 26.25 dwelling units/acre = 263 dwelling units for each 10-acre multi-family site.

2. The minimum number of dwelling units for each area is calculated as follows:

   263 dwelling units x 90% = 237 dwelling units for each 10-acre multi-family site.

i. Within each area designated Senior Housing/Multi-family Housing, either Multi-Family Housing or Senior Housing are allowed. If Multi-Family Housing is developed, the maximum density allowed is 26.75 dwelling units/gross acre, with a minimum density of 90% of the maximum density. If Senior Housing is developed, then the maximum density allowed is 50 dwelling units/gross acre.

   The City has been working with the Stanislaus County Housing Authority to develop a 55-unit project in Village One, Precise Plan Area #20. The proposal consists of 20 unit apartment complex and 35 single-family residential units. The apartments will be affordable to lower income households. The above density requirements will not apply to the Housing Authority project.

j. It is desirable that the City and the property owners in this Precise Plan Area agree on the process for coordinated development of this Precise Plan Area in advance of initiating any development. In any case, a single development entity should manage the development process. This role should include coordinating all aspects of land assemblage and infra-structure improvements, construction of the buildings, and implementation of the sales and leasing programs. In addition, consistent and centralized ongoing management of the retail/commercial components of the Village Center should be maintained.

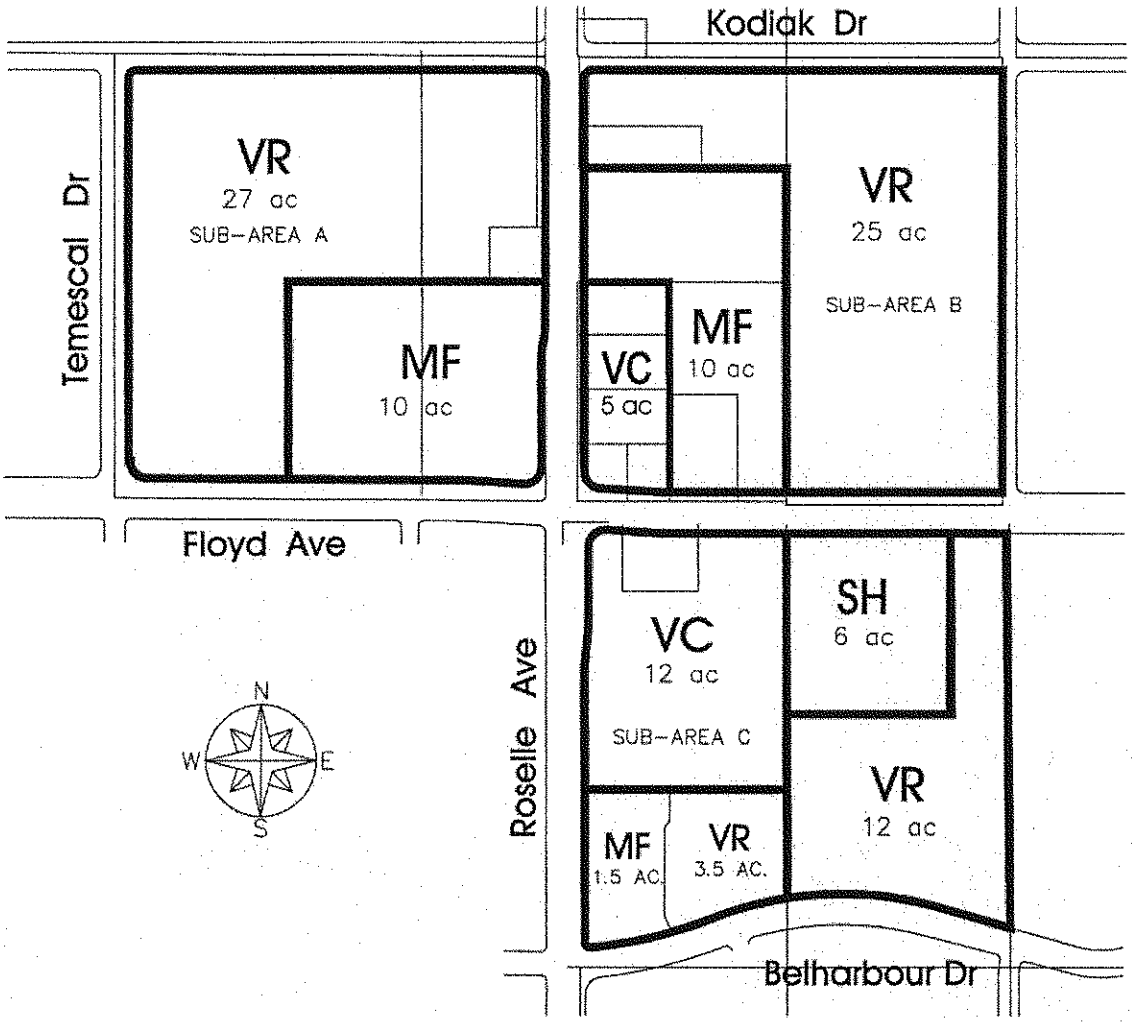


Figure III - 21

Precise Plan Area #20

VR	Village Residential
MF	Multi-Family
SH	Senior Housing
VC	Village Commercial Center

North

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007- 750

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR: AMENDMENT TO THE VILLAGE ONE SPECIFIC PLAN AND PRECISE PLAN AREA NO. 20 SUB-AREA B TO REVISE THE LAND USE DESIGNATION FROM MULTI-FAMILY TO VILLAGE CENTER, PROPERTIES LOCATED ON THE EAST SIDE OF ROSELLE AVENUE, NORTH OF FLOYD AVENUE (BEST DEVELOPMENT GROUP, LLC)

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One Final Environmental Impact Report ("EIR") (State Clearing House No. 90020181) is complete and adequate pursuant to Section 15090 of the Cali-fornia Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, the Modesto City Council has adopted Resolution No. 94-297 which certified the Final Supplemental EIR for Village One; thus, the 1990 Village One Program EIR has been amended and updated by the 1994 Supplemental EIR, adopted by Resolution No. 94-297 on May 24, 1994, and

WHEREAS, on May 6, 2003, the City Council adopted Resolution No. 2003-223 which adopted an Addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan Update – May 2003 ("VI FMP "), and

WHEREAS, an application has been filed by Best Development Group, LLC for a amendment to the Village One Specific Plan and Precise Plan for Area No. 20, property located east of Roselle Avenue and north of Floyd Avenue, and

WHEREAS, the City's Community & Economic Development Department reviewed the proposed Project to determine if said Project might have a significant effect on the environment, and

WHEREAS, City staff has prepared a Written Checklist, Environmental Assessment No. EA/C&ED 2007-45, which concluded that the proposed Project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and the addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan, and

WHEREAS, the Planning Commission, by Resolution Nos. 2007-51 and 2007-52, adopted on November 5, 2007, recommended to the City Council approval of an Amendment to the Village One Specific Plan and Precise Plan for Area No. 20, property located east of Roselle Avenue and north of Floyd Avenue, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on December 12, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2007-45, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2007-45 For the Proposed Amendment to the Village One Specific Plan and Precise Plan Area No. 20", for the proposed project, and the Council hereby makes the following findings:

1. As per Sections 15168 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Program EIR, and no new environmental document or findings are required by CEQA, and

2. There are no substantial changes proposed in the project, which result in new significant environmental effects, or a substantial increase in the severity of previously identified significant effects and, there-fore, no major revisions to the Program EIR are required.

3. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and therefore, no major revisions to the Program EIR, are required.

4. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:

    a. One or more significant effects which is not discussed in the Program EIR; or,

    b. Significant effects which were previously examined will be substantially more severe than previously shown; or,

    c. Previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,

    d. Mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

5. The Written Checklist, Environmental Assessment No. EA/C&ED 2007-45, provides the substantial evidence to support findings 1-4, noted above.

A copy of said Written Checklist, Environmental Assessment No. EA/C&ED 2007-45, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2007-45 For the Proposed Amendments to the Village One Specific Plan and Precise Plan Area No. 20", is attached hereto as **Exhibit "A",** and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"

WRITTEN CHECKLIST

EA/C&ED NO. 2007-45

Determination:
Project within the Scope of the Village One Specific Plan Program Environmental Impact Report for the

Project

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: David Wage
209/577-5302

Prepared by:

David Wage, Assistant Planner
City of Modesto
Community & Economic Development Department
209/577-5267

9/24/07

WRITTEN CHECKLIST

EA/C&ED No. 2007-45

I. PURPOSE

This written checklist is prepared under the CEQA Guideline regulations regarding use of a Program EIR with Later Activities, where activities in the program must be examined in the light of the Program EIR to determine whether an additional environmental document must be prepared. Pursuant to CEQA Guidelines Section 15168 (C) (4), this checklist serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR. Based on a review of the project and the criteria in Section 15162(a), this determination would permit the lead agency (City of Modesto) to approve the activity as being within the scope of the project covered by the Program EIR. This determination includes whether any new environmental document is required beyond the adopted Village One Specific Plan Program EIR (SCH# 90020181) for the proposed Specific Plan Amendment, Precise Plan Amendment and Final Development Plan.

The 1994 Supplemental EIR that amended and superseded the 1990 Program EIR is the document reviewed for projects within the Village One Specific Plan area. A summary of significant impacts and their mitigation measures from the 1994 Supplemental EIR is attached as Exhibit "A". Where appropriate those feasible mitigation measures developed in the Supplement to the program EIR shall be incorporated into the proposed project.

II. PROJECT INFORMATION

1. **Project Title:** Specific Plan Amendment, Precise Plan Amendment and Final Development Plan for Walgreens

2. **Lead Agency Name and Address:** City of Modesto

3. **Contact Person and Phone Number:** David Wage
Modesto Community & Economic Development Department
209/577-5302

4. **Project Location:** Northeast corner of Roselle and Floyd
APN Numbers: 085-050-007, 085-050-008, 085-050-006, 085-050-005, 085-050-004

5. **Project Sponsor's Name and Address:** Best Development Group, LLC. 2580 Sierra Blvd. Suite E Sacramento, CA 95825

6. **General Plan Designation:** Village Residential

7. **Zoning:** Specific Plan Overlay SP-O

8. **Description of Project:** Pursuant to the adopted Village One Specific Plan, the applicant is proposing to amend the Village One Specific Plan and Precise Plan 20 to re-designate the permitted land uses for five parcels (4 acres) at the northeast corner of Roselle and Floyd. The site is currently designated for multi-family uses. The applicant is proposing to re-designate the property to allow "Village Center" uses, which can include commercial or office uses. The applicant has also submitted an application for a Final Development Plan for a 14,820 square-foot Walgreens on the three southernmost parcels.

9. **Surrounding Land Uses and Setting:** The Village One Specific Plan Area is over half built, as planned and approved by the 1990 Village One Specific Plan. The project area is surrounded by multi-Family land uses to the North, South and East, and West.

10. **Other Public Agencies whose Approval Is Required:** None

III. DETERMINATION:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15168 (c) (4) the following is true for the proposed project:

1. There are no substantial changes proposed in the project which result in new

significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the 1994 Supplemental EIR are required.

2. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the 1994 Supplemental EIR are required.

3. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Village One Program EIR, as amended by the 1994 Supplemental EIR, was adopted which shows any of the following:

   a. one or more significant effects which is not discussed in the Village One Program EIR, as amended by the 1994 Supplemental EIR; or,

   b. significant effects which were previously examined will be substantially more severe than previously shown; or,

   c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or,

   d. mitigation measures or alternatives which are considerably different from those analyzed in the Village One Program EIR, as amended by the 1994 Supplemental EIR, would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

4. The Initial Study, Environmental Assessment No. EA/C&ED 2004-45, provides the substantial evidence to support findings 3-5, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

Dan Wagel 10/30/07

Project Manager Date

IV. PROJECT EVALUATION:

The following written Checklist based on Appendix G of the CEQA Guidelines serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15168 (c) (4) to determine whether the environmental effects of the operation were covered in the Program EIR.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
I.	**AESTHETICS.** Would the project:				
a.	Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☑
b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	☐	☐	☐	☑
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☑
d.	Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	☐	☐	☐	☑

Aesthetic and visual impacts are analyzed on pages III-100 through III-101 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that The Village One Specific Plan program EIR found that as the Specific Plan area is developed, it will eliminate views of the valley and the distant mountains from adjacent areas and reduce the area's visual open space. However, the program EIR found the effects of buildout of Village One on scenic vistas to be less than significant because views from the project area are minimal. The proposed development would not change the extent or nature of construction in the Specific Plan area, or cause any other changes in the project area. Impacts on scenic vistas would therefore remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that The Village One Specific Plan program EIR found that there are no scenic resources in the project area,

and that development within the Specific Plan area would therefore not result in significant impacts on scenic resources. This finding would not be affected by the proposed abandonment. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that The Village One Specific Plan program EIR found that the development within the Specific Plan area would have a less-than-significant impact on the visual character of the area. The proposed development would not change the design or layout of the development proposed within the Village One Specific Plan. It is called for by the Specific Plan. For this reason, impacts on the visual character of the area would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

d. The proposed development is consistent with the Village One Specific Plan. For this reason, impacts associated with additional light and glare would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
II.	**AGRICULTURAL RESOURCES.** In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:				
a.	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☑
b.	Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?	☐	☐	☐	☑
c.	Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	☐	☐	☐	☑

Impacts on agricultural resources are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that land designated as Prime Farmland would be lost as a result of development in the Village One Specific Plan area. This impact was determined to be significant and not mitigable. The proposed development would not affect this finding because the project area would remain the same. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR presented information showing that any Williamson Act contracts in the Village One Specific Plan area would be automatically cancelled on annexation of the land to the City of Modesto, which has occurred, or would expire within 10 years of the time the original program EIR was prepared. The last Williamson Act contract covering land in the Village One Specific Plan area expired in 2001. There are no lands in the project area under Williamson Act contract. The Village One Specific Plan area has also been rezoned consistent with the specific plan, and no lands in the project area are now zoned for agricultural use. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR identified a potential land use conflict between new residential uses in the specific plan area and adjacent agricultural uses. Such conflicts can lead to conversion of adjacent farmlands to other uses. The program EIR proposed mitigation measures for this potential impact that would reduce the impact's significance, although the EIR noted that the mitigation measure might not fully mitigate the impact. No additional mitigation measures are available for this impact. This finding would not be affected by the proposed project because the project area and proposed land uses would remain the same. There would be no additional impact. No mitigation is required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact

III. AIR QUALITY. When available, the significance criteria established by the applicable air quality management or air

	pollution control district may be relied upon to make the following determinations. Would the project:				
a.	Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☑
b.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☑
c.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☑
d.	Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☑
e.	Create objectionable odors affecting a substantial number of people?	☐	☐	☑	☐

Impacts on air quality are analyzed on pages III-45 through III-54 of the 1994 Supplement.

Responses to Checklist Questions

a. / b. The Village One Specific Plan program EIR found that air pollution from project-related construction traffic and fireplaces & wood stoves in planned residential areas would violate air quality standards and contribute to an existing air quality violation. Construction traffic emissions would contribute to violation of the state and federal 8-hour carbon monoxide (CO) and particulate matter (PM10) standards and the federal ozone standard in the Modesto Urban Area and the San Joaquin Valley Air Basin. Urban traffic pollution would contribute to violations of the state ozone, CO, and PM10 standards in the Modesto Urban Area and San Joaquin Valley Air Basin. Residential pollution would contribute to violations of the pollutant standard index in the Modesto Urban Area. Partial mitigation for these impacts is included in the program EIR (Mitigation Measures 3–5), and the City of Modesto adopted a statement of overriding consideration for each impact. The proposed project would not change the amount of development and construction in the project area, so trips generated by the project would not be affected and the types of land uses would not change. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that air pollutant emissions associated with traffic at buildout of Village One would exacerbate the existing ozone, PM10, and CO violations in the Modesto area and cause a significant

cumulative impact. Partial mitigation for these emissions is included in the program EIR (Mitigation Measures 4.5.3[a] and 4.5.3[b]), and the City of Modesto made a statement of overriding consideration for each impact. The proposed abandonment would not change the amount of traffic associated with buildout of Village One or the types of land uses, so trips generated by the project would not be affected. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR found that PM10 generated during construction would aggravate the respiratory problems of people living and working nearby, therefore exposing sensitive receptors in the area to pollutant concentrations and causing a significant impact. However, the program EIR outlines mitigation measures that will be implemented to reduce the impact to an acceptable level (Mitigation Measure 40). The proposed projectt would not change the level of construction emissions. There would be no additional impact. No mitigation is required.

e. The proposed commercial development a drive-through. The project site is adjacent to residential development. The drive-through could create potential orders.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IV.	**BIOLOGICAL RESOURCES.** Would the project:				
a.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☑
b.	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☑
c.	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not	☐	☐	☐	☑

	limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?				
d.	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☑
e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☑
f.	Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☑

Impacts on biological resources are analyzed on pages III-68 through III-79 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the buildout could result in the loss of foraging habitat for Swainson's Hawk, a state-listed threatened species. However, this project is infill development of land not useful as foraging habitat. The development of the project site would result in a less than significant impact to foraging habitat for Swainson's Hawk. Therefore, no mitigation is required.

b. The Village One Specific Plan program EIR did not find that any riparian habitat or other designated sensitive natural community was present in the project area, and so found that the project would have a less-than-significant impact. The proposed specific plan and precise plan amendments would not change the boundaries of the Specific Plan area. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would result in the loss of lands that might be classified as wetlands by the U.S. Army Corps of Engineers, but that, with mitigation, the impact would be less than significant. The proposed specific plan and precise plan amendments would not change the Specific Plan area boundaries or the areas that would be disturbed. There would be no additional impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not identify any migratory corridors in the project area, nor did it find that the project would interfere with

the movement of any species. The project would not change the Specific Plan area boundaries. There would be no impact. No mitigation is required.

e. / f. No local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans apply to the Village One Specific Plan area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
V.	**CULTURAL RESOURCES.** Would the project:				
a.	Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	☐	☐	☐	☑
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	☐	☐	☐	☑
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☑
d.	Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☑

Responses to Checklist Questions

a.-d. Impacts on cultural resources resulting from the buildout of Village One (e.g., from construction of associated infrastructure) are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The report concluded that there are no known historic, archaeological, or paleontological resources in the Village One Specific Plan area. Based on the results of this report, (Cultural and Historic Resources Report, page 3) it was determined that the likelihood that the project would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. Development of the proposed project will not result in effects on scattered existing structures. A Cultural Resources Assessment was prepared to determine if any of these affected structures are considered historic resources. The Cultural Resources

Assessment is attached to this document as Appendix A. No historic structures are located within the project area boundaries. Therefore, no mitigation measures are necessary.

Since no archaeological, or paleontological resources were found in the previous document to be located in the project area, and since the proposed project would not have a significant impact on historic structures, there would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VI.	**GEOLOGY AND SOILS.** Would the project:				
a.	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
	1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☑
	2. Strong seismic groundshaking?	☐	☐	☐	☑
	3. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☑
	4. Landslides?	☐	☐	☐	☑
b.	Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☑
c.	Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☑
d.	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☑

e.	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?	☐	☐	☐	☑

Impacts associated with geology and soils are analyzed on pages III-105 through III-108 of the 1994 Supplement.

Responses to Checklist Questions

a.-d. The program EIR, as supplemented, found that the project area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures were required. The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan included provisions for the project to be served by public sewers. No septic tanks or alternative wastewater systems were proposed. The proposed project would not change the proposed method of wastewater disposal. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VII.	**HAZARDS AND HAZARDOUS MATERIALS.** Would the project:				
a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☑
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☑
c.	Emit hazardous emissions or involve handling	☐	☐	☐	☑

	hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				
d.	Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☑
e.	Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
f.	Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☑
h.	Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☑

Impacts associated with hazards and hazardous materials are analyzed on pages III-80 through III-94 and III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a.–c. The Village One Specific Plan does not allow any land uses that would use hazardous materials. The proposed specific plan and precise plan amendments would not change land uses contemplated by the Specific Plan. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR, as supplemented, found no hazardous materials were stored at or near the project site. No significant impacts were identified, and no mitigation measures were required. There would be no additional impact. No mitigation is required.

e. The Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located to the east of the Village One Specific Plan area. However, take-offs and landings were found to take place parallel to and outside the Specific Plan area boundaries, and flight patterns are generally situated to the east of the Specific Plan area. There would be no additional impact. No mitigation is required.

g. Since the adoption of the Village One Specific Plan, the Modesto General Plan has been updated to include development of Village One consistent with the specific plan. City emergency plans are developed with the assumption that the Village One Specific Plan will be implemented. The proposed project would not change construction, land use, or other physical attributes of the Right-of-Way Acquisition. There would be no additional impact. No mitigation is required.

h. The project site is located in an area of the City of Modesto planned for buildout of an urban neighborhood. Approximately 50% of the project area remains undeveloped, with a covering of dry brush and vegetation. The potential for wildland fires is low, and this potential will decrease further as buildout continues. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VIII.	**HYDROLOGY AND WATER QUALITY.** Would the project:				
a.	Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☑
b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☑
c.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?	☐	☐	☐	☑

d.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?	❑	❑	❑	☑
e.	Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	❑	❑	❑	☑
f.	Otherwise substantially degrade water quality?	❑	❑	❑	☑
g.	Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	❑	❑	❑	☑
h.	Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	❑	❑	❑	☑
i.	Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	❑	❑	❑	☑
j.	Contribute to inundation by seiche, tsunami, or mudflow?	❑	❑	❑	☑

Impacts associated with hydrology are analyzed on pages III-109 through III-119 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR did not find that buildout of the plan would violate any water quality standards or waste discharge requirements. The proposed project is consistent with the Village One Specific Plan, so there would be no additional impacts. No mitigation is required.

b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area might interfere with local groundwater recharge. However, the impact was found to be less than significant because the Specific Plan area is not a major groundwater recharge area and it includes a recharge/discharge plan for disposal of stormwater runoff and recharge of groundwater. The proposed project would not change the amount of impervious

surface in the Specific Plan area or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

c.–e. The Village One Specific Plan program EIR found that development will substantially alter the existing drainage pattern of the area but, because the project will incorporate an urban storm drain system, will not result in any erosion impacts. The proposed project would not change the amount of impervious surface or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

f. The Village One Specific Plan program EIR did not find that development would substantially degrade water quality. The proposed project would not change water use or discharge associated with the buildout of the Village One Specific Plan area. There would be no additional impact. No mitigation is required.

g.–i. According to the Village One Specific Plan program EIR, the project site is not situated in a 100-year flood hazard area or downstream from a levee or dam. There would be no impact. No mitigation is required.

j. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IX.	**LAND USE AND PLANNING.** Would the project:				
a.	Physically divide an established community?	☐	☐	☐	☑
b.	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☑
c.	Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☑

Impacts associated with land use and planning are analyzed on pages III-80 through III-94 of the 1994 Supplement.

Responses to Checklist Questions

a. The proposed project would not result in any physical changes to the environment beyond those described in the Village One Specific Plan. Village One would continue to be developed as a planned community; therefore, the project would not divide an established community. There would be no impact, and no mitigation is required.

b., c. The Village One Specific Plan has been adopted by the City of Modesto and has been incorporated into the Modesto General Plan. The proposed project includes a proposed amendment to the Village One Specific Plan. If approved, the project would be consistent with the Village One Specific Plan. There are no other applicable land use or conservation plans for the project area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
X.	**MINERAL RESOURCES.** Would the project:				
a.	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☑
b.	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☑

Responses to Checklist Questions

a., b. No known mineral resources or important recovery sites are located in the Village One Specific Plan Area. There would be no impact. No mitigation is required.

Potentially Less than Less-than- No

		Significant Impact	Significant with Mitigation Incorporated	Significant Impact	Impact
XI.	**NOISE.** Would the project:				
a.	Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?	☐	☐	☐	☑
b.	Expose persons to or generate excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☑
c.	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☑
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☑	☐
e.	Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑

Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.

Responses to Checklist Questions

a., c. The Village One Specific Plan program EIR found that proposed residential housing in the project area would be exposed to noise levels exceeding general plan thresholds, but mitigation measures were incorporated to reduce the impact to a less-than-significant level. The proposed project would not change project-related noise-generating activities. There would be no additional impact. No mitigation is required.

b. The Village One Specific Plan program EIR found that the buildout of Village One would not expose people to, or generate excessive, groundborne vibration or groundborne noise levels. There would be no impact. No mitigation is required.

c. The Village One Specific Plan program EIR found that construction of the proposed project would result in a substantial temporary increase in ambient noise levels for residential housing. However, mitigation measures were incorporated into the program EIR to reduce the impact to a less-than-significant level. The proposed project would not change construction activities. The proposed commercial development is adjacent to residences. The commercial activity, including a proposed drive-through could increase the ambient noise levels. No mitigation is required.

e. The Village One Specific Plan program EIR found that the Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.

f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the Village One Specific Plan area. However, take-offs and landings take place parallel to and outside the Specific Plan boundaries, and flight patterns are generally situated east of the project area. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XII.	**POPULATION AND HOUSING.** Would the project:				
a.	Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	☐	☑
b.	Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
c.	Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑

Impacts on population and housing are analyzed on pages III-95 through III-99 of the 1994 Supplement

Responses to Checklist Questions

a.–c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would not result in significant adverse impacts on population and housing units. No mitigation is required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XIII. PUBLIC SERVICES. Would the project:				
a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:				
Fire protection?	☐	☐	☐	☑
Police protection?	☐	☐	☐	☑
Schools?	☐	☐	☐	☑
Parks?	☐	☐	☐	☑
Other public facilities?	☐	☐	☐	☑

Impacts on public services are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a. The Village One Specific Plan program EIR found that the only significant impact that buildout of the Village One Specific Plan area would have on public services would be in the areas of fire protection and law enforcement. Mitigation measures were identified in the program EIR to reduce the level of this impact to a less-than-significant level. No other significant impacts on public services were identified. The proposed project would not change the provision of public services. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XIV.	**RECREATION.** Would the project:				
a.	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☑
b.	Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☐	☑

Impacts on recreation are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a., b. No significant impacts on recreation were identified in the program EIR.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XV.	**TRANSPORTATION/TRAFFIC.** Would the project:				
a.	Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	☐	☐	☐	☑
b.	Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or	☐	☐	☐	☑

	highways?				
c.	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☑
d.	Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☑	☐
e.	Result in inadequate emergency access?	☐	☐	☐	☑
f.	Result in inadequate parking capacity?	☐	☐	☐	☑
g.	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☑

Impacts on transportation and traffic are analyzed on pages III-40 – III-44 of the 1994 Supplement.

Responses to Checklist Questions

a., b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system and would affect level of service at several intersections. Mitigation measures identified in the program EIR were identified to reduce impacts to a less-than-significant level for all intersections except the Briggsmore Avenue/Oakdale Avenue intersection. For that intersection, the impact was determined to be significant and not mitigable. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the 1994 Supplement. The proposed project would not alter traffic patterns in the Specific Plan area or result in additional trips. There would be no additional impact. No mitigation is required.

c. The Village One Specific Plan program EIR did not find that the buildout of the Village One Specific Plan area would result in a change in air traffic patterns. The proposed project does not include any elements that would affect air traffic patterns. There would be no impact. No mitigation is required.

d. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area included any hazardous design features or increased any incompatible uses for roads in the project area. The final development plan does propose to include the location of a driveway in a bus turnout. In addition the driveway does not meet the minimum distance requirements from the Roselle and Floyd roundabout. As a condition of approval, staff will require the relocation of the driveway when the property to

the north develops. Therefore, the project will have a less than significant effect on increasing hazards due to a design feature. No mitigation is required.

e. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate emergency access in the Specific Plan area. The Specific Plan includes provision of adequate roadways to serve the Village One development. Therefore, the impact on emergency service access is less than significant. No mitigation is required.

f. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate parking capacity in the Specific Plan area. There would be no impact. No mitigation is required.

g. The proposed project does not include any changes related to transportation policies, and would have no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVI.	**UTILITIES AND SERVICE SYSTEMS.** Would the project:				
a.	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☑
b.	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☑
c.	Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☑
d.	Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?	☐	☐	☐	☑

e.	Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☑
f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☑
g.	Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☑

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Responses to Checklist Questions

a. The City provides sewer services to the Village One area. All wastewater would be directed to city wastewater treatment facilities. No wastewater discharges would occur in the project area. The proposed project would not significantly increase the amount of wastewater that will be generated at buildout of the Specific Plan area. The project is subject to current wastewater fees, which are collected to complete infrastructure improvements needed to serve new development. There would be no additional impact. No mitigation is required.

b., e. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on water or wastewater infrastructure. The project is subject to current wastewater fees, which are collected to complete infrastructure improvements needed to serve new development. There would be no additional impact as a result of the proposed project. No mitigation is required.

c. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed in order to accommodate build out of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on stormwater drainage facilities. An update to the Storm Drainage Master Plan has been prepared and is under consideration by the City. An addendum to the Village One program EIR for the Storm Drainage Master Plan has also been prepared and is under consideration by the City. The project would not result in any additional impacts or the need for any additional mitigation beyond that assessed in the Addendum to the Village One Program EIR for the Storm Drainage Master Plan.

d. The Village One Specific Plan program EIR found that, with mitigation, the effects of buildout of the Village One Specific Plan area on water supply would be less than significant. The project is subject to current water fees, which are collected to complete infrastructure improvements needed to serve new

development. There would be no additional impact resulting from the proposed project. No mitigation is required.

f., g. The Village One Specific Plan program EIR found that the area's landfills have sufficient permitted capacity to accommodate the project's solid waste disposal needs. The proposed project would not result in any physical changes in the environment or the generation of any additional solid waste. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVII.	**MANDATORY FINDINGS OF SIGNIFICANCE.**				
a.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☑
b.	Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☐	☑
c.	Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☑

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

Responses to Checklist Questions

a. As described above, the proposed Specific Plan and Precise Plan Amendments, and Final Development Plan would not result in any significant impacts on the environment over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

b. As described above, the proposed project would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR. Recent studies such as the Water and wastewater studies have identified the need for additional infrastructure to serve new development. The City has adopted new fee schedules to reflect the cost of needed improvements. The project is subject to current fees and thus there are no significant cumulative impacts.

c. As described above, the proposed project would not result in any significant impacts affecting humans over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

V. MITIGATION APPLIED TO PROJECT

The following mitigation measures developed in the 1994 Village One Specific Plan Supplement to the Program EIR are appropriate to the project and will be incorporated into the project. Therefore, the environmental effects of the project were covered by the program EIR.

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/ suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

2. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

3. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

4. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

5. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

6. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

7. The developer shall implement measures to prevent carryout or trackout that may otherwise occur in conjunction with construction activities.

8. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

   The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

   a. A hammer or any other device or implement used to pound or strike an object.

   b. An impact wrench or other tool or equipment powered by compressed air.

   c. A hand-powered saw.

   d. Any tool or piece of equipment powered by an internal combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

   e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

   f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

   g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

   h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors

and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

9. If archeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the MEIR.

10. The developer shall implement pre- and post-construction best management practices (BMP) to minimize pollutants entering the storm system.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-751

A RESOLUTION AMENDING THE GENERAL FUND FISCAL YEAR 07/08 OPERATING BUDGET TO ALLOCATE ONE NEW CLERICAL POSITION AT AN ANNUAL COST OF APPROXIMATELY $58,206 (0100-140-1413)AND TO RECOGNIZE FUTURE FUNDING REQUIREMENTS RELATED TO THE TRANSITION OF LAND DEVELOPMENT FUNCTIONS AND INFRASTRUCTURE FINANCING PROGRAM TO THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT.

WHEREAS, on June 5, 2007, as part of the FY 07/08 budget adoption, the City Council approved the transfer of the land development functions and the Infrastructure Financing Program to the Community and Economic Development Department, and

WHEREAS, said move was part of the Council's continuing efforts to improve the development review process and service delivery, and

WHEREAS, these functions/programs currently reside in the Community and Economic Development Department, and

WHEREAS, while existing operating budgets were transferred at the same time as the relocations occurred, no additional funding was allocated for transitional needs, and

WHEREAS, staff has subsequently identified various expenses necessary to successfully complete this relocation effort, including:

1. One new clerical position identified as a Senior Administrative Office Assistant pending classification review by the Clerical Committee;
2. Study of space needs and development of relocation plan;
3. City Engineer costs for professional dues, office furnishings, and technology, and

WHEREAS, said expenses for FY 07/08 are estimated to be $41,841 paid out of existing operating funds, and

WHEREAS, on-going costs related to the clerical position are estimated at $58,206 in FY 08/09 and will need to be allocated as new General Fund expenditures in FY 08/09, and

WHEREAS, it is also recognized that additional one-time and on-going costs may be forthcoming pending completion of the space needs study and relocation plan and will need to be addressed in future years, and

WHEREAS, this request was reviewed and approved by the Finance Committee at their meeting of November 26, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the General Fund operating budget for FY 07/08 to allocate a new Senior Administrative Office Assistant in the Community and Economic Development Department (0100-140-1413) with an annual cost of approximately $58,206.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Keating, O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: _____
Stephanie Lopez, Acting City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-752

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO PURCHASE AGENDA PLUS SOFTWARE FOR THE CITY OF MODESTO, BY ACCESSING THE TERMS OF THE COMPETIVELY BID CONTRACT FROM THE CITY OF SAN DIEGO, FOR AN ESTIMATED COST OF $63,000

WHEREAS, the Information Technology Department encumbered $63,000 in FY 2006-07 for the purchase of Agenda Plus software, and

WHEREAS, the City has the opportunity to utilize piggyback language from a competitively bid contract between AlphaCorp/SIRE Technologies and the City of San Diego, and

WHEREAS, the implementation of this software product will greatly assist City staff in the creation and management of City Council agenda items and encourage interdepartmental coordination, and

WHEREAS, the Modesto Municipal Code, Section 8-3.203 generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, there are exceptions to the rule set forth in the Modesto Municipal Code, and

WHEREAS, one exception, Modesto Municipal Code Section 8-3.204 (d) states, " Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality," and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase, and

WHEREAS, by "accessing the terms" through the agreement set in place with the City of San Diego for the purchase of Agenda Plus software will ensure that the City will be paying the lowest cost commensurate with the desired quality, and

WHEREAS, this purchase will conform to Modesto Municipal Code Section 8-3.204 (d),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchasing Manager to purchase Agenda Plus software for the City of Modesto, by accessing the terms of the competitively bid contract from the City of San Diego, for an estimated cost of $63,000.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the use of $63,000 of encumbered funds to procure the Agenda Plus software.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating, O'Bryant

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-753

A RESOLUTION AMENDING THE PARKING FUND FISCAL YEAR 07/08 OPERATING BUDGET TO ALLOCATE A NEW MAINTENANCE WORKER I/II POSITION AT AN ANNUAL COST OF APPROXIMATELY $52,000.

WHEREAS, the Building Maintenance Division of the Parks, Recreation & Neighborhoods Department has identified the need for an additional Maintenance Worker position for the pressure washing crew, and

WHEREAS, the Finance Department has determined that there are sufficient resources within the Parking Fund to support the estimated $52,002 in annual cost for this position, and

WHEREAS, this request was reviewed and approved by the Finance Committee at their meeting of November 26, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Parking Fund operating budget for FY 07/08 to allocate a new Maintenance Worker I/II position in the Parking Fund (6000-350-3581).

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
Stephanie Lopez, Acting City Clerk

APPROVED AS TO FORM:
BY: _____
Susana Alcala-Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-754

A RESOLUTION AMENDING THE COMPOST FUND FISCAL YEAR 07/08 OPERATING BUDGET TO APPROPRIATE $46,088 FOR THE FIRST YEAR OF FUNDING OF A FIVE-YEAR LEASE/PURCHASE OF A "HURRIKAN" TYPE PLASTICS SEPARATOR AND TO RECOGNIZE THE FUTURE OBLIGATION OF APPROXIMATELY $41,088 THROUGH THE LIFE OF THE LEASE/PURCHASE AGREEMENT.

WHEREAS, the Solid Waste Division of the Parks, Recreation & Neighborhoods Department operates and maintains the City's Composting Facility, and

WHEREAS, the facility processes and composts materials from a variety of sources, and

WHEREAS, this finished compost product is sold to nurseries, landscapers, soil amendment brokers, and the general public as a registered fertilizing material, and

WHEREAS, in order to maintain a high quality product it is critical that plastics be removed from the finished product prior to sale, and

WHEREAS, staff has identified the need for a plastics separator to be used in conjunction with other equipment to remove plastics from the compost product prior to sale, and

WHEREAS, most composting operations are now using the "Hurrikan" type plastics separator which can be obtained through a five-year lease/purchase at a cost of approximately $175,000 or $41,088 annually over a five-year period inclusive of financing costs, and

WHEREAS, this supplemental budget request was reviewed and approved by the Finance Committee at their meeting of November 26, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Compost Fund operating budget for FY 07/08 by

$46,088 to fund the first year of the lease/purchase of the "Hurrikan" plastics separator (6290-355-5222-0451/0452).

BE IT FURTHER RESOLVED, that additional funding of approximately $41,088 shall be necessary through Fiscal Year 2011-2012 to fully fund the lease/purchase of said equipment.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
Stephanie Lopez, Acting City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-755

A RESOLUTION AMENDING THE 2007/2008 BUDGET TO APPROPRIATE $78,000 FROM THE SDEA ANTI-DRUG ABUSE PROGRAM GRANT (8850-190-1974-0255) TO THE INFORMATION TECHNOLOGY NETWORK DIVISION 7130-070-0743-0110 TO FULLY FUND THE ALLOCATION OF ONE SYSTEMS ENGINEER I/II TO SUPPORT THE STANISLAUS DRUG ENFORCEMENT AGENCY (SDEA) UNIT

WHEREAS, at the SDEA Board of Directors meeting of October 17, 2007, the SDEA Board elected to transfer technology support functions to the City's Information Technology Department, and

WHEREAS, this position is dedicated to support the Modesto Police Department for information technology needs, and

WHEREAS, SDEA is a multi-agency; multi-jurisdictional unit of officers assigned the task of primary drug enforcement within Stanislaus County, and

WHEREAS, the increase of computer support requirements resulted in the need for one additional Systems Engineer staff member for the Information Technology Department, and

WHEREAS, the SDEA Board of Directors approved the transition of technology support to the Modesto City IT Department, and also committed to funding the additional staffing requirements, and

WHEREAS, funding commitment was approved for $78,000 for the remainder of FY07/08, and

WHEREAS, ongoing funding for future budget years was approved for $120,000 per year, and

WHEREAS, these funds will be provided from multiple SDEA funding sources including Grants, Asset Forfeitures, as well as Agency contributions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the 2007/2008 budget to appropriate $78,000 from the SDEA Anti-Drug Abuse Program Grant (8850-190-1974-0255) to the Information Technology Network Division (7130-070-0743-0110) to fully fund the allocation of one Systems Engineer I/II.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-756

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO CONFIRMING THE CANVASS OF THE SECOND REGULAR MUNICIPAL ELECTION WHICH WAS HELD IN THE CITY OF MODESTO ON DECEMBER 11, 2007, AND DECLARING THE RESULTS OF SAID ELECTION

WHEREAS, the Charter of the City of Modesto provides that if no candidate for an elective office of the City receives a majority vote at a regular municipal election, a second Regular Municipal Election shall be held at which the two candidates receiving the highest number of votes at the first election shall have their names on the ballot for the election to the office, and

WHEREAS, at said Regular Municipal Election on November 6, 2007 a majority vote was not cast for Councilmember for Chair 1 to the City Council, and

WHEREAS, the two candidates receiving the highest number of votes for Councilmember Chair No. 1, Robert Farrace and Dave Lopez, will have their names on the ballot for a run-off election to be held on Tuesday, December 11, 2007, and

WHEREAS, the Second Regular Municipal Election was held by mail ballot in the City of Modesto on Tuesday, December 11, 2007, to elect a Councilmember to the Chair No. 1, as mentioned above, and said election was held in accordance with the with law and the proceedings of this Council, and the votes thereat received and canvassed, and the returns thereof ascertained, determined and declared in all respects as required by law, and

WHEREAS, the City Clerk canvassed the returns of said Second Regular Municipal Election in accordance with law, and certified the results of the election to the

Council by a Certificate of Canvass and Statement of Votes dated December 19, 2007, a copy of which is hereto marked EXHIBIT "A" and made a part hereof,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Said Canvass by the City Clerk as shown on said Certificate of Canvass and Statement of Votes and the results of the election are hereby ratified, confirmed and approved.

SECTION 2. That in accordance with Section 10264 of the Elections Code, a copy of said Certificate of Canvass and Statement of Votes, which is attached hereto marked as EXHIBIT "A" and made a part hereof, shows a complete tabulation of the following:

(a) The whole number of votes cast in the city.
(b) The names of the persons voted for.
(c) The measures voted upon
(d) For what office each person was voted for.
(e) The number of votes given in the city for each person.

SECTION 3. That, at said Second Regular Municipal Election, held by mail ballot, the following named persons having received a majority of the votes cast for the elective offices, as designated on Exhibit "A", are hereby declared to be duly and regularly elected to such office; and, the City Clerk is hereby directed to issue a Certificate of Election to each of said persons, certifying her/her election to the office appearing after his/her name, and to administer to each of said persons the oath of office prescribed by the Constitution and laws of the State of California, and the Charter of the City, to wit:

Dave Lopez — **Councilmember, for a term of four years, Chair No. 1, Modesto City Council**

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 19th of December, 2007, by Councilmember Dubnar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(Seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

CERTIFICATE OF CANVASS
AND
STATEMENT OF VOTE

CITY OF MODESTO SECOND REGULAR MUNICIPAL ELECTION
December 11, 2007

I, Stephanie Lopez, Acting City Clerk of the City of Modesto, do hereby certify that I publicly canvassed the returns of the City of Modesto Second Regular Municipal Election held on December 11, 2007. The following are the results of said election:

CANDIDATES	NUMBER OF VOTES	PERCENTAGE OF VOTE
Chair 1, Modesto City Council		
Robert Farrace	8,569	46.3%
Dave Lopez	9,910	53.6%

	TOTAL REGISTERED VOTERS	TOTAL TURNOUT	TURNOUT PERCENTAGE
City of Modesto Council Seat	88,680	18,577	20.9%

STEPHANIE LOPEZ
Acting City Clerk/Auditor
City of Modesto

December 19, 2007

STATEMENT OF THE VOTE

OF

CITY OF MODESTO

COUNTY OF STANISLAUS

STATE OF CALIFORNIA

-CAST AT THE-

CITY OF MODESTO
MUNICIPAL RUNOFF ELECTION

-HELD-

TUESDAY, DECEMBER 11, 2007

State of California
County of Stanislaus

I, STEPHANIE LOPEZ, Acting City Clerk & Auditor, of the above-named city, do hereby certify that the within is a true and correct statement of results of the votes cast in this county at the City of Modesto Municipal Runoff Election as determined by the official canvass of the returns of the said election.

Witness my hand and seal, this 19th day of December, 2007.

STEPHANIE LOPEZ
Acting City Clerk & Auditor

S U M M A R Y R E P O R T

CITY COUNCIL - CHAIR 1 (No. to vote for 1)	(#/PCT 3) (#/RPT 3) (%/RP 100.0)	
Robert Farrace	8569	46.3
Dave Lopez	9910	53.6
Blank voted (ballots)	63	0.3
Over voted (ballots)	35	0.1

VOTER STATISTICS	(#/PCT 3) (#/RPT 3) (%/RP 100.0)	
CITYWIDE REGISTRATION	88680	
VOTE BY MAIL TURNOUT	18577	20.9